

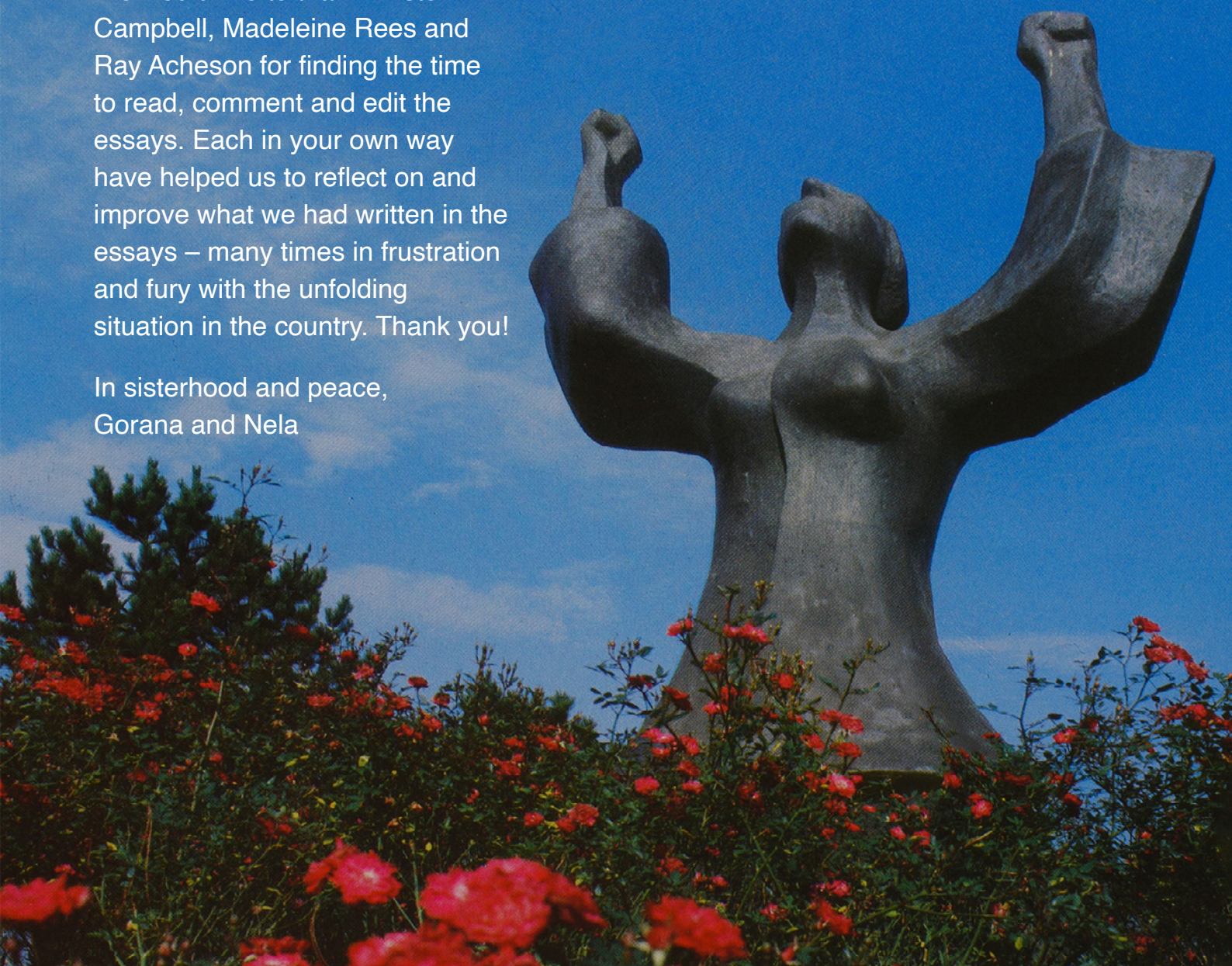
By Gorana Mlinarević
and Nela Porobić

THE PEACE THAT IS NOT

**25 Years of Experimenting with
Peace in Bosnia and Herzegovina
- Feminist Critique of Neoliberal
Approaches to Peacebuilding**

We would like to thank Kirsten Campbell, Madeleine Rees and Ray Acheson for finding the time to read, comment and edit the essays. Each in your own way have helped us to reflect on and improve what we had written in the essays – many times in frustration and fury with the unfolding situation in the country. Thank you!

In sisterhood and peace,
Gorana and Nela



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The Peace that is not: 25 Years of Experimenting With Peace in Bosnia and Herzegovina – Feminist Critique of Neoliberal Approaches to Peacebuilding

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Introduction

The end of 2020 for Bosnia and Herzegovina marked 25 years since the signing of the General Framework Agreement for Peace, colloquially known as the Dayton Peace Agreement. For Bosnia and Herzegovina this marked the start of a contradictory peacebuilding process. These contradictions both maintain peace and keep the country in a perpetual state of conflict. 25+ years since the end of the war is an appropriate time to reflect, examine, and analyse the successes and failures of the peacebuilding process, framed by the solutions set out in the peace agreement.

Peace neither starts nor ends with the act of the signing of a peace agreement. Building peace should be an inclusive and reflective process grounded in the lived experiences of those affected. However, in Bosnia and Herzegovina the peace process has had none of this. Bosnians and Herzegovinians have been suffering the consequences of an imposed and flawed peace agreement for more than 25 years, burdening their political, economic, and social relations. Without a shift in narrative and approaches to peacebuilding, the war will continue to shape their lives for many more years to come.

For this reason, WILPF presents this series of essays from two local feminists who tell a story of a country 25 years into its peacebuilding efforts—a story that goes beyond mainstream interpretations, narratives, and understandings of the peace agreement and its consequences for the country.

The following essays analyse the impact the Dayton Peace Agreement has had on people's lives, written from the perspective of those whose bodies have been exposed to its workings. While the Dayton Peace Agreement can be looked at from several different perspectives, this series of nine essays will highlight five themes and their gendered nature: historic and geopolitical context of the politics of peace negotiations and peacebuilding; (de)militarisation of war and peace; ethno-nationalism and division of the territory and power; international civilian administration and its neocolonial character; and neoliberal influence on peacebuilding and dealing with the past.

Through these themes, the authors reflect on how the war and the peace have been interpreted, applied, projected, and reproduced within the Bosnian and Herzegovinian society and how a process of peacebuilding, firmly grounded in neoliberal ideology, has generated results contrary to the very essence of peace. Bringing in a feminist counter-narrative to a neocolonial, patriarchal, and militant framework these essays offer a perspective on how to start repairing the social fabric torn apart by the war and its consequences.

Dayton Peace Agreement – The Peace Agreement That Was Not

On 14 December 2020, Bosnia and Herzegovina marked 25 years since the signing of the General Framework Agreement for Peace, formally signed in Paris but agreed earlier that year in Wright-Patterson Air Force Base near Dayton, Ohio, in the United States. The Agreement has most often been referred to as the Dayton Peace Agreement (DPA). From then on, for us who live in Bosnia and Herzegovina (BiH), the word Dayton has received a new meaning. Instead of referring to a geographical location, the word Dayton is used to reference a piece of paper that has determined the political, the economic, and the social system of the country.

The fact that the peace agreement, together with its 11 annexes, was negotiated in a military base has carried with it specific connotations and consequences for our everyday lives, militarising our peace, both in subtle and violent ways. Wars are seen, understood, and known as a male and a military endeavour. So, of course, it was highly “logical” and “natural” that the actors (self-)invited to negotiate peace were all men, with the support of their militaries. Of course it was also “logical” and “natural” that the negotiations took place in a military base, and that the negotiators very appropriately dined, entertained themselves, and talked in an airforce museum, under B52 bombers and a replica of an atomic bomb. And of course, they saw their opinions about the war and their vision of peace as the only relevant perspectives!

Beyond the militaristic stage of the negotiations and outside of the Dayton theatre, the consequences of war stretched far beyond the militarised male playgrounds.

However, the war ravaged the lives of hundreds of thousands of civilians. Beyond the militaristic stage of the negotiations and outside of the Dayton theatre, the consequences of war stretched far beyond the militarised male playgrounds. The bombs were not just targeting soldiers but civilians as well; the snipers were not seeking out men but were shooting at women, too; and the shells and grenades were not targeting only military objects but hospitals, children on the playgrounds,

and elderly people in the line for food or water. We lived it, and those who were not in BiH may remember the live broadcasting of the war and will recall that the TV footage streaming into living rooms across the globe clearly showed this variety of experiences.

1.1. The anatomy of war

From World War II to the war in the 1990s, BiH was one of the six republics of the Socialist Federal Republic of Yugoslavia (SFRY). Causes of the **dissolution of the SFRY** and the wars that followed in some of its successor states in the 1990s, including the war in BiH, were complex and remain inadequately analysed and discussed. The **armed violence started** in Slovenia and Croatia in 1991; continued with a full-blown war in BiH from 1992; escalated war violence in Kosovo 1998/1999; and concluded with the armed violence in Macedonia in 2001. Important to note is that only the BiH and Macedonian (**Ohrid peace agreement**) conflicts ended with peace agreements. The armed violence and conflicts were not chronologically linear and independent of each other. There were multiple overlaps in terms of actors, claims, and the processes of transition. The process of dissolution of SFRY goes beyond the purpose of these essays since we focus on the DPA and its consequences for BiH.

During the war in BiH simplistic narratives of primordial hatred inherent to the (ethno)nationalist projects framed the positions of the ethno-nationalist domestic military and political elite, as well as of the international political, economic and military establishment. Their position throughout the peace process was that the war in BiH was exclusively ethnic in nature, and should be dealt with as such. However, **the causes of war were complex** and included, among others, socio-economic, historical, and geopolitical dynamics in the region and globally.

Anti-war protests were taking place throughout BiH continuously for almost a year before the outbreak of the war.

The start of the war in BiH cannot be easily described, nor was it a linear series of events. People in BiH were not a voiceless mass, silently accepting the deterioration of the society and plunging into violence. The start of military violence on the territory of the Socialist Republic of BiH was happening against the backdrop of the dissolution of the SFRY and the already raging war in Croatia. Anti-war protests were taking place throughout BiH continuously for almost a year before the outbreak of the war. The last major anti-war protest taking place in Sarajevo turned into complete chaos with at least two women participants shot dead. These killings marked the final victory of violence and guns that engulfed our lives for the following four years.

The war in BiH, which lasted from 1992 to 1995, was highly brutal. The spectrum of committed crimes ranged from forced displacement, mass rapes of women, torture, imprisonment, slavery and forced labour, violation of social and economic rights, sieges of urban areas, indiscriminate shelling and bombing, murder, enforced disappearances, ethnic cleansing, to genocide. More than half of the population became internally displaced or refugees. Many were killed or injured and there was massive destruction of the country's infrastructure. Everything from homes and factories to social infrastructure and resources was destroyed. People's lives were devastated and the social cohesion and fabric were torn apart. While people's lives and the long-term impact the war had on society cannot be monetised, we know that the **total bill** for reconstruction of infrastructure was estimated to be between 20 and 40 billion USD.

Gendered conceptions of how war is supposed to be waged was deployed by those engaging in violence. Men were massively mobilised into regular armed forces, paramilitaries, and local defence groups, given guns and no options. Exceptions were civilian men from the targeted population, who were not recruited but were imprisoned under the pretense of being "potential enemy soldiers". On the other hand women were automatically seen as civilians, but they were also mobilised into gender-specific roles within civilian aspects of life. Women's social reproductive roles were both reinforced and expanded. **Women were mobilized into compulsory work obligations**, maintaining production in factories but also given tasks related to various aspects of public civilian life, and in support of the military. In addition, some women voluntarily joined armed forces, and some even committed war crimes – but this did not distort the overall gendered picture of the war.

The war violence itself was extremely gendered. For example in the **genocide in Srebrenica** men were killed and women expelled. In camp detention settings gender-based patterns were clearly visible. In addition to being more exposed to rape, forced pregnancies, and sexual slavery, women were subjected to forced domestic labour. The detention pattern itself was gendered. Apart from the camp detention settings, women were also detained and forced into marriage and partnerships in private household settings. In similar manner, **the harms caused by violence were also gendered**. Displacement, which disproportionately affected women in multiple ways, such as loss of social networks, poverty, loss of education, opportunities etc.; women's reproductive health was significantly affected by multiple factors, ranging from rape to lack of hygienic products and access to gynaecologists; there were serious social and economic consequences on women whose husbands disappeared and who became sole breadwinners of households; and so forth.

Furthermore, the framing of the war through **ethnic narratives had consequences on women's bodies**, intensifying the pressure on women's

biological reproductive functions, demanding more bodies to “preserve the nation(s)”. Women’s bodies were targeted **as bodies of the “enemies”** and sexual violence against women was seen as a legitimate method of warfare aimed at destroying their capacity for biological reproduction. However, war being a misogynist endeavour, women were targeted by violence not just within the official enemy narrative, but also simply because they were women, as the deployed process of feminisation devalued their lives. This violence took place even within their homes and areas under the control of supposedly “friendly” armies.

1.2. The geopolitics of a peace agreement

After four years of war, violence, and destruction, peace negotiations resulted in the DPA in November 1995. The finalisation of negotiations, culminating in the peace agreement, did not fall from the sky into the isolated military base in Dayton, Ohio, but was historically and geopolitically conditioned. Europe was a scene for major political, economic, and social changes during the end of the 1980s and beginning of the 1990s. The shift in hegemonic powers, symbolically illustrated by the fall of the Berlin Wall and concretised in the dissolution of the “Eastern Bloc” and decline in influence of the Non-Alignment Movement, led to the rise of the so-called Western hegemonic power. The thesis of **“the end of history”** entered the mainstream narrative, arguing that the Western liberal democracy had emerged as the highest and final form of human governance.

Neoliberal capitalism and free markets emerged as an undisputed economic and political system. The influence of neoliberalism spread globally, entering discourses about democratisation, peacebuilding, rule of law, and human rights. Privatisation, competition, and individualism were promoted by the mainstream political and economic actors as the “next stage” in global development and emancipation. Whatever class politics existed they were entirely abandoned and reduced to **identity politics** and individualism leaving structures of oppression unaddressed. The **grassroots movements for social justice** worldwide pushed against abandonment of egalitarian notions of emancipation and distribution. Nevertheless, the national and international elites in power ignored those calls and carried on with this shift within the mainstream global discourse.

1.2.1. The power players

The DPA is a glaring example of an internationally brokered peace agreement in such a context. The international position on the war in BiH and what the peace should look like was not homogenous. The positions the different actors took reflected various geopolitical and other interests and positions. At the time, the “players” included the European Union (EU), which was in its restructuring period;

individual member states of the EU, which drew their individual power positions from their permanent membership in the United Nations Security Council, namely the United Kingdom and France; Germany, a member of the EU, but with its reinforced power position within the EU after unification; the USA; and Russia. The USA sought dominance in international relations and infringed on what was considered to be the EU's geopolitical sphere, while Russia's motivation came from trying to hold onto old days of its cold-war power. Important to note is that, at that time, the fifth permanent member state to the United Nations Security Council, China, seemed to be indifferent to being part of this international power circle.

This geopolitical dynamic culminated in these countries joining forces in the so-called Balkan Contact Group that emerged as a “**crisis management**” mechanism for BiH. The Group was established in 1994 and served as a coordination forum for the United States, the Russian Federation, France, the United Kingdom, and Germany. However, if we are to believe the leading US diplomat at the time, **Richard Holbrooke**, despite the existence of the Contact Group it was the USA that took leadership in facilitating the process leading up to the DPA. Following Holbrooke's writing, and the geopolitical context, we can draw the conclusion that, by establishing its military, economic, and political power within the dynamics of the global international relations at the time, the USA succeeded in imposing itself as the most relevant player in the peace negotiations. Consequently, taking the place of the leader in brokering the peace agreement, the USA had the most influence in framing the peace in BiH. The USA, under the Clinton administration, took the lead, not least by pushing for the shift in international diplomacy that increasingly became open towards using military force, primarily by North Atlantic Treaty Organisation (NATO) military powers.

1.2.2. The involvement of the United Nations

Considering the mandate of the United Nations (UN), one could expect that it was heavily involved in the peace negotiations. However, this was not the case. Not the least because the UN was struggling to redefine its role in the post-cold war period and to perform its fundamental obligation of preserving peace in the world. From the very beginning of the war, the involvement of the UN in BiH was heavily determined by the post-cold war geopolitical dynamics. At the outset of the war the UN Secretary-General at the time, Boutros Boutros-Ghali, did not consider it appropriate to have the UN actively involved. According to **Susan Woodward**, political scientist focusing her work on the Balkans, Eastern Europe, post-Soviet affairs and post-conflict reconstruction, Boutros Boutros-Ghali asserted as a matter of principle “that conflict management in the post-cold war period should be foremost a responsibility of regional organisations”. Thus, the UN involvement was constantly undetermined, shifting from disinterest, to being accidentally caught in the crossfire and directly affected, to being involved in monitoring and protection and subsequently even facilitating war crimes.

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The UN presence and engagement started with the opening of headquarters in Sarajevo for the UN troops deployed to Croatia (where the war started in 1991). The headquarters were opened following the February 1992 report from the Secretary-General to the UN Security Council and adoption of the resolution **743** forming the United Nations Protection Force (UNPROFOR). Consequently, when the war officially started in BiH, some UNPROFOR troops were already in BiH. However, in order for the UN mission to be officially deployed to BiH, the mandate was adapted to the specific circumstances in the country. In BiH, UNPROFOR was tasked to protect the Sarajevo airport (UNSCR **758**); to provide humanitarian aid and protection to humanitarian agencies (UNSCR **776**); and to protect the six designated safe areas (UNSCR **819** and **824**). The UN protection mandate was highly controversial in its ineffectiveness, vagueness, and cowardice as it failed in its fundamental goal to protect the civilians. The UN war-mandate in BiH culminated scandalously and disgracefully with the genocide in **Srebrenica in 1995**, when the UN failed to protect civilians in what was officially proclaimed a “safe area” under UN protection, handing over civilians to the Army of Republika Srpska forces who committed genocide.

1.3. Peace negotiations – prologue to the DPA

The DPA came at the end of numerous peace negotiations, starting with the *Carrington Plan* from 1991 (even before BiH was in a full fledged war), *Cutileiro Plan* from 1992, and *Vance-Owen Plan* from 1993. Throughout the war, the various peace talks shifted from being solely led by the EU to becoming a joint endeavour of the UN and EU. All of those attempts failed. Consequently, the point was reached where no further attempts at negotiations were made by either the UN or EU. This opened the space for the USA to take the lead, resulting in the US brokered *Washington Agreement* in 1994, which became the building block of the DPA.

None of the proposed plans moved outside of the understanding that the war in BiH was rooted in ancient ethnic hatred. Even before the start of the war and instrumentalisation of the violence to fortify ethno-religious identities and divisions, the international players insisted on viewing BiH through the prism of a contested nation-state. Even though the anti-nationalist and anti-war voices were very

visible and present in the BiH public, there were no attempts by the international community to counter the ethno-nationalist elites' framework and put on the table a solution that would reverse, or at least weaken, the (ethno)nationalist projects of violent division of the country. For the international actors, the solution was to divide the country along ethnic lines, while at the same time ensuring its **external borders were kept intact**.

It seems that placing the negotiations in BiH, the most logical place of them all, was not even considered.

While the Bosnians and Herzegovinians were in their basements, trenches, under siege, shelling, and snipers, in concentration camps, in refugee camps, and displaced from their homes, some without water, food, electricity, and heating, the ethno-nationalist negotiators were traveling the world as adventurers, contributing to the development of the global tourist industry, all while pretending to negotiate the peace for the benefits of the people. Parallel to this, world leaders competed and quarrelled about where the next tourist destination, that is the peace negotiating meeting, should take place, so that the host country could gain political points and the glory of a peacemaker. It seems that placing the negotiations in BiH, the most logical place of them all, was not even considered. Instead of carrying names of BiH cities, all the agreements and documents pertaining to peace negotiations carry either the names of distant and unrelated places, or names of the people that hold no value for us.

1.3.1. The Washington Agreement – formalising power-sharing and territorial divisions

The 1994 **Washington Agreement** framed some of the ground for the discussions in the DPA. In line with the proclaimed “ethnic nature” of the war, understanding the war as a “quarrel” between three opposed ethnic sides, the international community decided to take aside two of the “naughty boys” (i.e. the self-proclaimed leadership of Bosnian Muslims – Bosniaks and Bosnian Croats), and have them kiss and make up. Only when those two stopped fighting did they try to have them make friends with the third and the most “naughty” of them all (i.e. the self-proclaimed leadership of Bosnian Serbs). The two warring parties, defined through their claimed ethnic belonging, namely Bosniaks and Bosnian Croats, agreed to power-sharing and to establishing of the Federation of Bosnia and Herzegovina (FBiH) with detailed elements of the future constitution of the FBiH.

The principles of territorial division and power-sharing elements proved to be fully acceptable for the ethno-nationalist elites and their political, (ethno)nationalistic projects. This “successful” recipe was used as a basis for the DPA. The FBiH was

confirmed in the DPA as one of the two administrative units of the country. The principle of dividing the territory between the so-called ethnic groups was taken up by the Contact Group a couple of months later and developed into the **principle of 51:49**. The principle of 51:49 meant that 51% of the territory of BiH was assigned to the FBiH while the remaining 49% to the so-called Bosnian Serb majority area. This principle of territorial division was later used in the DPA.

1.3.2. Geneva and New York – division as a matter of “basic principles”

Furthermore, as an interlude between the Washington and the Dayton agreements, in September 1995 meetings were held in Geneva and New York (judging from the selection of cities, it seems as the US tourist offerings were more appealing than the European ones). During those two meetings, the so-called **Basic Principles** were agreed upon, further confirming the territorial division of BiH. The Principles confirmed the already established FBiH and added another administrative unit, the Republika Srpska.

What was obscured through these concessions was that the ethnic identity of the groups, and their “majority” status, were constructed through war violence and crimes.

The understanding of the war as “ethnic” resulted in the negotiators only being able to imagine ethno-territorial divisions as a way to accommodate ethno-nationalist elites’ claims. This approach was led by the logic of the nation-state concept and ignored that the ethno-nationalist territorial claims were based on the campaigns of forceful displacement, ethnic cleansing, and genocide. The logic of the nation-state is meant to ensure territorial and political protection to a group defined through kinship and belonging to common cultural heritage. Defined this way, a group and its characteristics are awarded greater political value in a certain territory. Translated in the context of BiH, *the nation* was replaced with *ethnic groups*, and *the state* with *administrative units*. These administrative units were given state-like functions, with clear territorial boundaries. What was obscured through these concessions was that the ethnic identity of the groups, and their “majority” status, were constructed through war violence and crimes.

1.4. Peace negotiations – dramatis personae in the Dayton theatre

1.4.1. Neighbourly involvement – acknowledgment of aggression?

In addition to international players and representatives of recognised warring parties in BiH, the military power behind the international political actors forced to the negotiating table representatives of two neighbouring countries: the Federal Republic (FR) of Yugoslavia (which consisted of Serbia and Montenegro as two republics that at the time remained federalised and appropriated the name Yugoslavia in order to keep its status within the UN) and the Republic of Croatia. The participation of FR Yugoslavia and Croatia in peace negotiations and signing of the DPA itself was a certain acknowledgment of their active participation in the war. Their signatures also represented some form of withdrawals of their illegal claims over parts of the BiH territory. This enabled the transition towards peace, by, for example, withdrawal of troops and demilitarisation of the region.

A notable oddity was that before the talks, the US diplomats insisted on the military and political leadership of the Bosnian Serbs to be represented by the then-President of the FR Yugoslavia, Slobodan Milošević. The reason behind this insistence was the fact that at the time the Bosnian Serb leadership had already been indicted for war crimes by the International Criminal Tribunal for the former Yugoslavia, while Milošević was indicted later.

This was arranged through a separate agreement known as the Patriarch agreement, as it was witnessed and co-signed by the patriarch of the Serbian Orthodox church. According to the agreement, Milošević was to represent the Bosnian Serbs at the negotiations in Geneva and later in Dayton. While it was important to take away the possibility of those who were indicted for war crimes to influence the negotiations, it was highly problematic that representatives of another country (FR Yugoslavia) were allowed to act in the name of anyone from the country that was the focus of the peace negotiations. This also represented another manoeuvre by Slobodan Milošević, who throughout the war was doing everything he could to create the perception that he was not involved in the war in BiH. This agreement provided him with the possibility to be involved in the peace negotiations not just as the president of FR Yugoslavia, but also to speak in the name of the Bosnian Serbs, without directly implicating himself (or Serbia/FR Yugoslavia for that matter) in participation in the war in BiH.

1.4.2. Exclusive right to representation

From the feminist perspective of women who do not ascribe to any of the “offered” identities, it seems to us that FR Yugoslavia was much more represented during the negotiations than anyone living in BiH. Living through extremely difficult and complex conditions created by the war, people were negotiating situations that were not exclusively determined by the identitarian framework. None of this was recognised during the negotiations. The majority of people of BiH, who did not have direct access to the political elite, were entirely excluded from any conversations held in preparation for the DPA negotiations. This exclusive process treated the society of BiH as apolitical. The people were only seen as bodies and canon fodder, valued only for their ability to fight. The non-militarised bodies were perceived as valuable only if their victimhood could be instrumentalised for ethnic narratives. People’s right to have any say about their future was entirely taken away from them. In fact, none of the negotiators came with the mandate from the people of BiH as to what they could or could not agree to. They were led by their own political understandings, visions and interests.

The people were only seen as bodies and canon fodder, valued only for their ability to fight.

Furthermore, by interpreting the war as “ethnic,” the existing, official, and recognised institutions of the Republic of BiH, which were made up of multi-ethnic political bodies, were effectively negated during the negotiations. Even if the state itself was represented during the negotiations, the only visible interests that were defended were those of ethnic groups. Even though multi-ethnic, the Republic of BiH became suddenly seen as a polity exclusively consisting of one ethnic group, i.e. Bosniaks.

1.4.3. Ignoring feminist peace work and demands

Significantly, **despite the fact that women significantly contributed** to the wellbeing of communities and households under extremely difficult circumstances; that women made up half of the population; and that there was continuous peace work done by feminists and women in the region; **women were entirely excluded** from the peace negotiating table. During the 1990s, feminists and women in general spent considerable time on provision of care, which was much needed, picking up the slack left by the absent state. They provided care to refugee women, to women survivors of wartime rapes, to women who became sole carers and breadwinners, etc. They also, along with international feminists, formulated demands and pushed for the prosecution of war crimes, especially prosecution of wartime rape that was disproportionately committed against women. The

exclusion of women was obviously not a result of women being silent, inactive, or for the lack of their demands for inclusion. It was the male elites in power that did not see women as relevant actors in dealing with the “male matters of war”.

The exclusion of women was obviously not a result of women being silent, inactive, or for the lack of their demands for inclusion. It was the male elites in power that did not see women as relevant actors in dealing with the “male matters of war”.

The Fourth World Conference on Women took place weeks before negotiations in Dayton. The Conference’s outcome, the **Beijing Platform for Action**, clearly contained calls for inclusion of women in peace negotiations and peacebuilding processes. This was ignored. Also ignored were the calls in the early 1990s to prioritise gender mainstreaming by the Council of Europe and other European institutions. Feminist legal and political scientists, **Christin Chinkin and Kate Paradine** argue that this should have been enough to encourage “boldness and vision in the [DPA] negotiation” to create mechanisms that “would offer all citizens, including women, the space and security for the fulfilment of their personal self-determination.” Instead, the ethno-nationalist elites’ framework and militarisation took priority over everyday experiences of those affected by war and subsequent peace.

1.4.4. Physical displacement and secrecy of the negotiations

The *modus operandi* of the negotiations was physical displacement and secrecy. The displacement meant that the negotiations were distanced both from the people and the territory the discussion was about. Considering the negotiations took place in a military base in the USA, this particular tourist arrangement could be characterised as a “military holiday”. While the ordinary people in BiH lived something that only later became part of the global tourist offer through morbid war-tourism, the military holiday offered the power elites an opportunity to acquire skills in bartering and trading with lives and territories. The skills acquired came in handy later when they started dividing the spoils of war and postwar transition. These skills are the most useful skills in BiH even today.

Furthermore, the secrecy underlined that only the power holders, both international players and local warlords, were seen as stakeholders. According to **Richard Holbrooke’s memoirs**, the outcomes of the shuttle diplomacy were to be held strictly secretive because “[l]eaks could be fatal, since they would trigger public pressure in Sarajevo to ask for more.” Of course, why would people of BiH have a say in what they want their country to look like and under what political, economic, and social conditions they would like to live! That sort of “public

pressure” could go against the orientalist narratives of ancient hatred, and the international diplomats’ and local warlords’ vision of apolitical BiH citizenry that does not know what they need and want, and consequently is in need of colonial and ethno-nationalist “guidance” (see [essays 3 and 4](#)).

1.5. The Peace Agreement – the text

The **Dayton Peace Agreement** itself is two pages long, with eleven short articles. Attached to it are also eleven different annexes. The agreement was signed by representatives of the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia. The signing was witnessed by the European Union’s Special Negotiator, and representatives of the French Republic, the Federal Republic of Germany, the Russian Federation, the United Kingdom, and the United States of America.

The signatories recognised mutual sovereignty and obligated themselves to respect the sovereign equality of one another. The DPA established that disputes between states are to be settled by peaceful means, and that states cannot take any actions against territorial integrity or political independence of BiH or any other state. By doing this, the peace agreement recognised the regional element of the war that was led on the territory of BiH. It also demonstrated that the neighbouring countries were directly involved in the war.

We have to take a pause here and try to share our confusion around the signatories of the agreement as compared to the content of it. The DPA deals with peace between “internal” warring parties, and provides “solutions” for an “internal” conflict and for the internal political and economic set-up of the country. So why then are two foreign countries even signatories without the DPA directly recognising their responsibility for the war and their obligations to reparations? (see [essay 5](#)) It seems as these three signatories were needed to create a direct link between statehood and ethnicity, where Yugoslavia represented the Bosnian Serbs, and Croatia the Bosnian Croats. The Republic of Bosnia and Herzegovina was thus reduced to representing the Bosniaks. The way this “peace table” was set up completely co-opts the Republic of BiH into a neoliberal identitarian framework. So in the end we were left with unresolved issues of who (or what political entity-state) “protects” or “represents” whom (which ethnic group or all of the citizens of BiH) even in today’s BiH.

In the annexes, the transition of BiH from war to peace was outlined through: demilitarisation (Annex 1-A); regional stability (Annex 1-B); division of the country along entity lines (Annex 2); organisation of elections six months upon the agreement entering into force (Annex 3); defining of the country’s Constitution (Annex 4); agreements on arbitration (Annex 5), human rights (Annex 6), refugees

and displaced persons (Annex 7), preservation of national monuments (Annex 8), public corporations (Annex 9), civilian implementation (Annex 10); and finally, an agreement on the international police task force (Annex 11).

What we can see from the text of the DPA and its annexes is that it approaches the shift from war to peace from two different perspectives: military and civilian. The document is a combination of directly addressing the state of war, in a strict military sense, and imposition of a new political and economic order of BiH. Contrary to the very essence of what peace agreements should be about, it avoids comprehensively dealing with harms arising out of war. It also avoids acknowledging the existing social, political, and economic systems of BiH and people's experiences of, and relationship with, those systems.

The DPA was negotiated and brought to the people by an exclusive group of international and national male elites, and was presented as an unquestionable, almost sacred, document. No doubt, considering the massive destruction, violence, and death, culminating in genocide, the intervention to end the military violence was welcomed both internationally and locally. The people in BiH were exhausted by violence—emotionally, physically, and economically. Prospects of the war ending came as a great relief. It took some years of recovery and rebuilding of our lives before the people of BiH were able to see the full consequences of the agreement, and to understand that the peace and the well-being of the people in BiH was the last thing in the focus of the negotiators.

1.6. Instead of conclusions: No room for peace

Given that the DPA negotiations were taking place behind closed doors, in a military base, far from public insight (unlike the war, which was fully televised), what was going on during those 20 days and the rationale behind proposed and accepted solutions, was never officially presented.

We, people living the DPA solutions, have been left with anecdotal and personal, very often questionable in their objectivity and truthfulness, reflections of those who were present during the negotiations as a source to learn about the discussions and the motivations of the different actors while in that military base. Those reflections are available to us in the forms of memoirs or as part of defence arguments in war crimes proceedings, or sometimes in some segments of interviews to the media.

At the time there was no internet, and no social media either. So there was no real-time coverage through personal statuses and photos of encounters, accidentally or purposefully published on Facebook or Twitter by those participating, to at least analyse them as an archive material.

What remains for us who live the outcome of those negotiations is a game of guessing. To understand and know exactly who was present in that military base, who was part of the various delegations, and who, in the end, signed the agreement and its annexes, requires investigative skills and subjective interpretations. Over the years, this lack of contextual clarity around the negotiations has left room for numerous interpretations and manipulations from the political elites. The game to establish power positions or claim legitimacy through referring to the DPA has been a constant and continuous feature in the public discourse of the political elites for the last 25 years.

What we can deduce is that many different men participated in the negotiations. Each and every man involved in proposing, drafting, making demands, and agreeing to solutions in the DPA assumed a role of negotiator, irrespective of the country he came from or the office he held. The publicly available information shows that there was no difference between negotiators and mediators during the negotiations. Thus, any diversification between them that sometimes appears in personal recollections or public statements is an attempt to obscure the role of all participants as active agents. They all proposed solutions and ultimately, through their various roles in the implementation, became parties to the peace agreement. So, even though international actors present themselves as “only” mediators and witnesses to the document, while ethno-nationalist elites are presented as the parties to the agreement, the DPA and its consequences, are in fact their joint enterprise in which none should be seen as having limited responsibility.

When it comes to the people living in BiH and their experiences, they were forgotten in the military base of Dayton, and consequently they were not considered relevant. Rather, it was insisted that men and their military power know best and are the most entitled to create a vision of BiH’s political, economic, and social future. That is how we ended up with the monstrous and complicated DPA, which divided the country and established visible and invisible borders; entrenched the rule of ethno-nationalist and ethno-religious profiteurs; locked us in a neoliberal economic system; and forced upon us a dysfunctional constitution.

25 years after the war the ethno-nationalist elites continue to use the conflict narrative all while living in a parallel universe. They are untouched by the political, economic, and social hardships produced by their nationalistic politics and the peace agreement they negotiated. The international elite on the other hand—well for them, it has all been just one big and (en)riching experience, ready to be applied elsewhere.

The fact is that 25 years after the war we are still stuck implementing and living every letter of an agreement that seems indefinitely incapable of transitioning the country from war to peace.

Moreover, as a society, we seem incapable of escaping the framing of our future as one born out of the ashes of the war. Every now and then, talks about the dysfunctionality of BiH give rise to the ideas of the need for “Dayton II” or “a final dissolution” of the country, or even about war. Instead of discussing how we can close the doors to our wartime past once and for all, the ethno-nationalist elites and their international “partners” seem determined to make the war the starting point of everything: no one seems to see that when talking about Dayton II they are actually implying that the last 25 years were years of conflict, if not of war (why else would we need another peace agreement?!).

In our following essays we will try to present some of our reflections on what the DPA and its implementation really brought to our society and our lives.

(De)militarisation That Was (Not)

The military aspects of the Dayton Peace Agreement (DPA) are outlined in its annexes 1-A (**demilitarisation**) and 1-B (**regional stability**). They foresaw only partial disarmament and partial demobilisation of the three warring parties and activities aiming at regional stabilisation. If we look at this from the perspective of the concept of Disarmament, Demobilisation and Reintegration (DDR), the reintegration of ex-combatants was not even considered in the DPA.

| The DPA negotiators did not follow the logic of peace. |

In its annex 1-A, the part that deals with partial demobilisation, the DPA only focused on male combatants, leaving out the fact that the whole of the society needed to be demilitarised. One would expect that full demilitarisation, including demobilisation and disarmament, should have been a logical outcome of the DPA following the war and people's traumatic experience of it. But of course, that did not happen. The DPA negotiators did not follow the logic of peace.

According to their logic, the establishment of some form of military protectorate and bringing in new soldiers, this time international ones, was understood as key for keeping the peace. As if building peace required more militarism and weapons! And, as if this was not counterintuitive and strange enough, the North Atlantic Treaty Organization (NATO), seen as the superior military world power at the time, was awarded a key role in peacekeeping, sidelining the UN. One of the reasons for choosing NATO as the "peacekeeper" might be that NATO was already engaged through the UN Security Council resolutions. **NATO operations** included monitoring and enforcement of compliance with UN imposed sanctions and no fly-zones over BiH; air support to UN missions on the ground; and airstrikes in coordination with the United Nations Protection Force (UNPROFOR).

Another potential reason for NATO getting a more prominent role than the UN in military matters in the DPA was that the UN peacekeeping missions at the time were tainted with their failures to protect civilians from genocides in BiH and Rwanda. These failures showed problems with command responsibility

concerning whether the UN troops were to be commanded by the country from which the troops were deployed, or UN headquarters. These problems in the chain of command facing the UN provided an opportunity for NATO to step in. Unlike the UN at that time, NATO conveniently already had the needed hierarchical structures in place.

It is worth reflecting that the post-cold war context allowed NATO to present itself as a peace-maker, since there were no opposing political and military powers. One would expect that with the end of the cold-war, which was used as an excuse for the race in armament, there would be no need for military expansion, especially not into the peacebuilding arena. However, this logic proved to be in contravention to the neoliberal, military expansionist ideology.

Instead of dissolving the armies and paramilitaries active during the war, and supporting peace by destroying the arms and militarist culture, NATO-led troops in BiH were to guarantee that the armies and paramilitaries behave according to arrangements set forth in the DPA. It seems as if they followed the logic of “might is right”. This was a classical militaristic approach telling us that peace was best kept through a credible threat of military violence. As **Zoran Pajić**, a professor of international law and former head of the Legal Reform Unit in the Office of the High Representative for Bosnia and Herzegovina points out, the result of the marginalisation of the UN was that NATO became “the central mechanism for international conflict resolution”. The consequences of this were grave and were felt far beyond BiH.

In retrospect, the DPA has done very little to demilitarise our society. More than anything else it repackaged the militarisation, creating a space for a shift from one form of a militarised society to another.

2.1. The geopolitics of military engagement

The DPA was an experiment in liberal peacebuilding and BiH was used as a playground for various geopolitical ambitions. BiH was also used as testing grounds when it came to deployment of international military and police missions. In order to control the warring parties, 60,000 international armed troops were deployed to BiH immediately after the signing of the DPA. These numbers were gradually reduced, due to the changing nature of the mandate of the international forces on the ground. Nevertheless, international soldiers still remain in the country 25 years later!

Annex 1-A of the DPA provided for the establishment of a multinational force, named the Implementation Force (IFOR). IFOR was to operate under the authority of the North Atlantic Council, through the NATO chain of command. The UN Security Council Resolution **1031** transferred the authority from the UNPROFOR to IFOR. Once the IFOR mandate expired it was reshaped into Stabilization Forces (**SFOR**), based on discussions and agreements between NATO Foreign and Defence Ministers and the Peace Implementation Council (PIC) that gathered countries overseeing the implementation of the DPA (for more on PIC see [essay 4](#)).

UN Security Council Resolution **1088** provided for the authorisation of SFOR to become the legal successor to IFOR. The SFOR troops, when they took over in 1996, counted 32,000 soldiers. At the end of its mandate, following several restructurings, the SFOR counted a total of 12,000 soldiers. While the subsequent changes in the mandate of international military forces were led by or coordinated with NATO, both the IFOR and the SFOR contained troops from NATO and non-NATO countries.

After the conclusion of the SFOR mandate in 2004, UN Security Council Resolutions **1551** and **1575** handed over primary responsibility for military aspects of the DPA to the European Union (EU) and its European Force (EUFOR) **Operation Althea**. At the same time, the resolutions recognised and welcomed a continued NATO presence in the country and establishment of the NATO headquarters in Sarajevo.

Have you had enough acronyms yet? We thought so too. Unfortunately, they did not stop changing the letters before FOR—and the combinations are never ending. At the moment we are with EUFOR, but it seems that chances are greater that we are going to get a new letter in front of the FOR before the international forces leave.

Prior to shifting the military responsibility to the EU, the EU already held primacy over the appointment of the High Representative in charge of the civilian aspects of the implementation of the DPA. These sort of power divisions were not exactly spelled out in the DPA but were part of the internal agreements between the EU and the USA. According to the US diplomat and **lead DPA negotiator Richard Holbrooke**, part of the negotiations leading up to the DPA included discussions among the international powers about who would oversee what. The US Congress was unwilling to provide any other funds but for the military, while it was expected of the EU to cover the reconstruction. As Holbrooke very bluntly put it in his book, “There were good arguments on both sides [EU and USA] of this issue, but it was not decided on its merits, or on the basis of Bosnia itself. The critical variable would be who paid for the civilian effort.”

The US interest and engagement in BiH changed after 11 September 2001, shifting the attention of the USA to the Middle East. Some of the political elites within the EU saw this as an opportunity to act on their ambitions to formulate a joint EU security policy as a complement to their imperialist, capitalist ambitions. BiH provided a great opportunity for the EU to start experimenting with deployment of forces under joint command, as a precursor to future joint EU forces. While the deployment of EUFOR to BiH in 2004 was the first of its kind, the EU has since deployed **several missions** around the world, from Palestine in 2005 to the Central African Republic in 2020. The ambitions of the EU bureaucrats and political leaders grew even further: the end of the occupation of Afghanistan and withdrawal of US and coalition troops in 2021 provided an opportunity for a **revival of the ambitions of the EU** to establish the so-called “European strategic autonomy” through creation of an EU military force.

Taking over the military aspect of the peace agreement was also integral to the **EU’s strategic objective of enlargement**. Previously the EU already took over the international police forces through **deployment of the European Police Mission** (EUPM). It was understood that all the countries of the so-called Western Balkans, including BiH, would eventually become the members of the EU and would consequently become a geopolitical and military part of the EU. These actions were always presented as beneficial for BiH, but they were never actually part of conversations with people living in the country. Since 2012 the **EUFOR troops in the country** have counted 600 soldiers, backed up with an out-of-country Intermediate Reserve Force, based within Europe, able to rapidly deploy to BiH should EUFOR troops require support.

2.1.1. Gendered political economy of peacekeeping: International presence and violence against women

Shifting acronyms that reflect geopolitical dynamics, along with shifting uniforms, represent a process of repackaging the militarisation that wants us to believe that peace is best preserved through the strong presence of a military.

But we have to ask, peace for whom? Military presence has never been peaceful for women. This presence is always gendered, both in its composition and in its consequence on the affected society. For BiH, the international troops that arrived did not just bring new weapons and uniforms to the country but also brought new forms of corruption, smuggling in people and arms, exploitation, black markets, and additional forms of militarised masculinities. As Madeleine Rees, head of

the UN Office of the High Commissioner for Human Rights in BiH at time when violence against women became known, **noted**: “By definition peacekeepers are engaged in countries where peace is tenuous and where pre-conflict norms have been undermined or replaced. The presence of large numbers of internationals, mainly men in uniform, in and of itself has a destabilising effect on the social and economic environment and contributes to the continuation and escalation of militarised societies.”

The presence of international troops, but also the outsourcing of peacekeeping roles to police officers and other internationals arriving to BiH, created a whole new free market that commodified violence against women in BiH. The growing number of “customers” made BiH a notorious site of sex trafficking and exploitation of women in the context of peace-making. For a while, sex trafficking was a very profitable business for everyone involved, apart from the exploited and enslaved women. As **stated by Kathryn Bolkovac**, a member of the peacekeeping forces in BiH in 1990s, the “police and humanitarian workers were frequently involved in not only the facilitation of forced sexual abuse, and the use of children and young women in brothels, but in many instances became involved in the trade by racketeering, bribery and outright falsifying of documents as part of a broader criminal syndicate.”

Even though all these consequences could have been predicted—as it is a well-documented fact that **violence against women** rises with an increase in military presence—the highly militarised male decision-makers insisted on these deployments without even considering protection mechanisms. It took years before the worst aspects of this renewed violence against women could be dealt with, adding to violence and harms experienced by women because of the war and the militarised “peace”.

2.2. Demobilising one, mobilising the others

The mobilisation of international troops was tightly connected to the process of demobilisation of the combatants. The international troops were to guarantee a safe and secure environment for all three warring parties during the process of their demobilisation.

We have to take a pause here and reflect on the fact that once upon a time the Socialist Federal Republic of Yugoslavia (SFRY) maintained a huge army (People’s Army of Yugoslavia) in order to keep us “safe” from foreign troops; and now foreign troops were keeping us safe from ourselves! This approach of military securing the peace was not successful in the SFRY given that the SFRY dissolved in a destructive war. Moreover, we ended up with deep trauma after experiencing

the use and abuse of a military that was supposedly “people’s”, i.e. “ours”, against us during the war. Why would this reversed approach work any differently?

Even the limited commitment that existed at the beginning to ensure demobilisation of the warring parties was not long-lived. Instead of planning for full demobilisation and, in fact, demilitarisation of the country through abolishment of the military as such, the warring parties, led by the international community, looked for ways to keep some form of military structures in place. Already as the very process of disarmament and demobilisation was ongoing, a defence reform was taking place, aimed at creating a new army and unifying former adversaries under a single command.

The demobilisation of the existing militaries took place in ad hoc **phases** and seemed to be based on “learning by doing” rather than a strategic plan. The demobilisation of more than 400,000 soldiers started in 1996 with the first round of voluntary demobilisation, and then continued again in 2002 and 2004 as part of the military budget cuts. Following the demobilisation, the process of unification of the three separate armies (and the ex-combatants who were not demobilised but remained in the armies as salaried employees) was finalized in 2005, resulting in one, joint and professionalised **Armed Forces of BiH**. With the reform came also the removal of conscription, as a result of pressure exerted by civil society. This small win was an important one. However, we still got stuck with an army. This time a “modern,” professional army under the auspices of the international military.

The unified military, while seemingly integrated, still replicates the ethnic divisions created by the war and reinforced by the DPA. This way, space has been left open for ethno-nationalist elites to, if nothing more than symbolically, use separate regiments to **create tensions and conflicts**, when they see fit. Not to be forgotten is the fact that these new “unified” forces are trained and armed, which means that, **should the ethno-nationalist political elite ever require a new army**, they will have readily available soldiers, notwithstanding in small numbers. They will also have modernised infrastructure, equipment, and weapons. All they need to do is divide it by three.

2.2.1. The continuation of the militarisation of the police

Another segment that was mishandled in the DPA, and consequently during its implementation, was the police. Even though, during the war, different police forces were visibly present as part of the troops and took part in the atrocities, their demilitarisation, including their demobilisation and disarmament, was not addressed. The parties to the DPA committed to disarming and disbanding all armed civilian groups, except for authorised police forces, which proved to be highly problematic as many war criminals were part of the official police forces during the war and continued to be so after the war.

Instead of addressing the role the police had during the war, the DPA, in its Annex 11, brought in another layer of policing to BiH.

Instead of addressing the role the police had during the war, the DPA, in its Annex 11, brought in another layer of policing to BiH. This time, police were in international uniforms, further strengthening the protectorate mandate of the international community. Annex 11 established a **UN International Police Task Force** (IPTF) and gave it a mandate to, among other things, monitor, observe, and inspect law enforcement activities, including judicial organisations (!), advise and train law enforcement personnel, and advise authorities in BiH on the organisation of effective civilian law enforcement. From this mandate, the IPTF deduced its later role in conducting a **vetting** exercise, which resulted in removal of some police officers who had committed crimes during the war. So at least some form of “cleaning-up” among the ranks of the police forces eventually did take place.

However, the vetting exercise was not without its problems. While many war criminals were indeed removed, too many of them still remained among the ranks. **The process was also corrupted** by false allegations that led to removal of officers that potentially were not involved in violations of human rights, without any possibility of appeal. What did not take place at all was the demilitarisation of the police. Instead, militarisation was continued by employment of new officers and establishment of new organisational units, which are now equipped with military-grade weapons.

Unlike the reform of the army, which ended with some form of unification and at least some reduction in the number of troops, the police reform was never completed. Its forces have remained divided along BiH's two entities (the Republika Srpska and the Federation of BiH) and along the ten cantons, under the direct control of the ethno-nationalist political elites, susceptible to abuse of power. Furthermore, the highly militarised police **can easily be deployed** as a military wing of the **ethno-nationalist political elites**, and this time in greater numbers (and potentially even better equipped for street battles) than the army.

2.3. Disarmament – out with the old, in with the new

The disarmament process followed the same logic deployed in the process of demobilisation. The warring parties were partially disarmed under the provisions of the DPA only to shortly thereafter start the armament process again, this time of the now joint Armed Forces of BiH and various and numerous police forces. The outmoded tanks, weapons, and strategies from the 1990s were discarded only to be replaced with better arms and modern military and police exercises.

The military exercises got americanised names, such as Joint Resolve, Immediate Response, and Double Eagle, while the new uniforms were fashionably designed in line with Hollywood blockbusters. The army even opened up to women, in accordance with the neoliberal understanding of the UN Security Council resolutions, popularly called the Women, Peace and Security agenda. Feminised uniforms appealing to women were also created. This time, the militarisation and armament were deemed acceptable, even desirable, because it was done according to the NATO and/or US and EU “standards”.

2.3.1. The project logic of disarmament

The military aspect of the DPA foresaw disarmament of civilian and paramilitary groups but never provided for a broad process of disarmament of the society as such. Disarmament became a project-driven endeavour, lacking a systematic approach. The projects were usually implemented and supported by the UN Development Programme (UNDP), individual embassies, or a third party. Once they ended, as per project logic, the “project” was declared finished and successful, no matter what it actually achieved. However, those who did not voluntarily give away the illegal arms they kept were not prosecuted, because a proper process of disarmament and sanctions was never put in place. Sanctions followed only if the weapons were discovered by accident. Years later, after these “successful” projects, the police still randomly find whole arsenals in people’s homes, including **anti-aircraft guns**. The “success” of these projects is clearly demonstrated by the fact that more than 25 years later we are still disarming. Currently we are at the stage of implementation of the UNDP-run projects with really specific (and somewhat unbelievable) names: **Explode** and **ExplodePlus!**

Instead of repurposing the factories for civilian production as part of the disarmament process, the infrastructure of these factories was rebuilt and modernised to keep up with the demands of the global, lucrative arms trade.

2.3.2. The lucrative affairs of the arms industry

But the existence of residual weapons from the war has not been our only problem. It is potentially not even the biggest one. The fact that the DPA did not even attempt to ensure full disarmament and demilitarisation of the country meant that significant space was left for the ethno-nationalist political elites to capitalise on the lucrative affairs of the arms industry. Ignored was the fact that the SFRY had a very developed arms industry and that a significant number of

factories that produced weapons were based in BiH. Forgotten was also the fact that the deadly products of this highly developed industry were indiscriminately and viciously used against us, killing and wounding many, destroying our homes and our lives. Instead of repurposing the factories for civilian production as part of the disarmament process, the infrastructure of these factories was rebuilt and modernised to keep up with the demands of the global, lucrative arms trade. In contrast, most of the non-military industry was either purposefully destroyed or just simply left to die out. It is incomprehensible that at the moment when peace was negotiated and plans for transitioning the country from war to peace were put in place, the infrastructure that enabled and supported the war was not entirely dismantled. Having factories that produce arms in our front yard means that, if needed, weapons can be quickly produced and abused by the ethno-nationalist elites again.

In addition, the production of arms is currently being presented by those in power as an economic development strategy. This approach has further militarised our society and economic development itself. Basing economic development, amongst others, on the proliferation of the arms industry means that the industry has become a significant employer, effectively militarising women and men employees and their families. They are pushed into dependency on the proliferation of weapons production; their economic well-being thus becomes tied to somebody else's destruction.

As per the capitalist logic of measurement of "economic development" in terms of GDP growth, the more arms we produce and sell the more "developed" is our economy. Even the **media** that reports on such economic development gets sucked into reproduction of militarisation, as its reporting is usually oriented towards uncritically promoting economic successes of the growth of this industry and its importance for the poverty stricken country.

2.4. Reintegration – neglecting the soldiers, (mis)using their military skills

In its provisions for partial demobilisation and disarmament, the DPA completely neglected reintegration of ex-combatants. At that time, **the concept of DDR was still under development**, and it was not yet a mainstream approach to peacebuilding. The concept of DDR emerged from the experiences of confidence-building measures in Latin America in the 1980s and was further developed based on experiences from the African continent. During the early 1990s, when the World Bank was pushing through structural adjustments programmes, scholars and practitioners working with the World Bank introduced the concept of DDR as an option to deal with the budgetary implications of over-

sized militaries. It was only much later that the UN adopted **Integrated DDR standards**. That may explain the gap in the DPA regarding reintegration, as well as the fact that it was the World Bank that took the lead in the ad hoc process of reintegrating ex-combatants in BiH.

The limited reintegration programmes that were rolled out in BiH did not actually manage to reintegrate many people; rather they left the majority of ex-combatants to fend for themselves. In the same way as the ethno-nationalist elites were using the ex-combatants' bodies during the war to gain power, they have continued using them in their power struggles on the battlefield left open by the DPA.

2.4.1. Caught by surprise

Following the signing of the DPA and throughout 1996, lacking any mechanism for systematic demobilisation, 300,000 soldiers simply took off their uniforms and left the armies and paramilitaries. Most of the ex-combatants left the armies only to enter a life in poverty.

Within the process of post-conflict reconstruction and recovery, the issue of how to reintegrate 300,000 jobless men roaming the streets soon became an emergency. The international community scrambled to deal with the issue. Since the DPA did not foresee reintegration, it was not clear who would oversee such programmes. The IFOR was mandated for the military part, the BiH government lacked capacity, and the civilian aspect of the DPA was entrusted to the Office of the High Representative. What was left was the World Bank with its "experience" from the African continent. Again, lacking a strategic approach to total reintegration of ex-combatants, we ended up with yet another project-driven intervention into this important segment of peacebuilding. They even gave it a proper "emergent" name.

The World Bank initiated an **Emergency Demobilization and Reintegration Project** that awkwardly combined soldiers, returnees, war victims, the disabled, and others (among them war widows). The project lasted from 1996 to 1999. It ended up costing approximately USD 9.2 million, out of which 7.5 million was a loan to BiH. An unknown percentage went into consultancy fees, outsourcing, and overheads, effectively returning a portion of that money back to the lenders (especially since the World Bank itself was implementing the project in one part of the country).

It may very well be that a country recovering from war needs a loan to be able to implement reintegration programmes. However, the loan could potentially only pay off if the programmes managed to actually reintegrate ex-combatants into the BiH economy, or establish effective mechanisms to deal with consequences of

militarised masculinities. But this was not really the case in BiH. The project had limited results, making this loan just another addition to the country's growing debt.

According to the World Bank's documents, this project (as per any project logic) was fairly "successful". In its short-sighted project-manner it measured success in numbers of people assisted instead of societal impact. About 100 small enterprises were started by ex-combatants; some 19,000 people received on-the-job training, resulting in 80 per cent of those participating receiving jobs (though it is unclear whether they were all ex-combatants and how long those jobs really lasted); an additional 3,300 persons received counselling and job-finding assistance, with 25 per cent eventually finding employment.

There are not many external evaluations or documentations of this project to be found. In one **evaluation** done by the Bonn International Center for Conversion and the Geneva-based Democratic Control of the Armed Forces, it is possible to find additional information. Such as, for example, that the NGOs contracted by the World Bank to provide counselling services reported a rate of 41 percent of people with clear symptoms of post-traumatic stress disorder (PTSD). Despite the clear implications that the existence of PTSD among ex-combatants has for their ability to reintegrate, this finding did not result in amendments to the project, or the provision of additional support. Not to mention securing a continuity in the support needed for people with PTSD. It is also unclear how many ex-combatants were ultimately included in the reintegration project, as it targeted other beneficiaries as well.

What is clear, though, is that the assisted ex-combatants make up only a small portion of the 300,000 ex-combatants that left the army the first year after the DPA. Since no long-term monitoring mechanisms were put in place, we know nothing of the project's sustainability. It is not unreasonable to imagine that a sizable portion of the ex-combatants ended up in traditionally male-dominated and short-term construction jobs, which were, in the war-destroyed country, in high demand. But these jobs were more often than not insufficiently paid and were more of a seasonal type of work than sustainable employment. Thus, it is fully possible that the numbers reported in the World Bank's documents reflected only immediate results and not long-term successes. The number of ex-combatants still waiting in line at the employment agencies confirms this.

The Emergency Demobilization and Reintegration Project was followed by a project implemented by the International Organization for Migration (IOM) called the **Transitional Assistance to Former Soldiers in BiH**. It was simply "logical" that one organisation that ultimately should not have anything to do with DDR-programmes be replaced with another with **an equal lack of mandate**! Since IOM is an agency supposedly dealing with migrations (as it is prominently stressed in its name), we wonder whether the understanding was that the ex-combatants were "migrating" to civilian life—hence IOM's assistance was needed.

The IOM project targeted soldiers (the majority of which were ex-combatants that remained in the army after the war ended) and civilian personnel who served with the armed forces and were demobilised by 2002 as part of military budget cuts. The project lasted until 2006 and consisted of non-monetary assistance through provision of vocational training; purchase of cows and agricultural production for start-up of businesses; enhancement of “marketing skills”; business counselling; and three hours (!) of training in human rights, democracy, and civil society.

The project activities were a supplement to the severance-package provided by the Ministry of Defence in the amount of 5,000 EUR. The severance package was only provided to the soldiers dismissed from the army as part of the second round of demobilisation.

2.4.2. There is no “emergency” for women

The absence of women during the peace negotiation resulted in the invisibility of women’s needs when it came to demobilisation, which was entirely focused on men. Also, women did not need to be “reintegrated,” apparently. There seems to have been a perception that women are adaptable to any circumstance—war, peace, reconstruction. Unless they were recognised as victims of, for ethno-nationalist narratives and manipulations, particularly “suitable” war crimes—e.g. rape, genocide, or concentration camp detainees—their existence and participation were not acknowledged.

But women were not “absent” during the war. Women were also part of armed forces or were mobilised in the labour force in order to support the military or sustain civilian aspects of life during the war. Not seeing **the different ways women participated in the armies**, no “emergency” or “transitional” assistance targeted the specific needs of women. As far as their status as ex-combatants was concerned, women were **perceived as a small group of beneficiaries**, almost not identifiable. Therefore, in case someone even remembered them, no special gender-sensitive programmes were deemed necessary.

2.4.3. The power and usefulness of ex-combatants

The reintegration of ex-combatants as part of the disarmament and demilitarisation process clearly lacked sustainability. Even though this project approach to reintegration failed, the ethno-national political elites understood very well the power they could draw from organised ex-combatants (or the threat of unsatisfied ex-soldiers if not co-opted in the ethno-nationalist projects). Consequently, strong, ethnically-based veteran associations (exclusively male) were created. The veteran associations became influential, interest-based organisations. Their leadership has consisted of few selected and “privileged” veterans close to the

(exclusively male) political elites, while the membership has mostly come from the invisible and underprivileged masses of manipulated ex-combatants. Over the years, the ethno-nationalist political elites have maintained political control over the many veteran associations in the country. One of the ways the control is exercised is through privileging veteran associations in distribution of public money intended for the support of non-governmental organisations. This is in addition to all other benefits veterans receive from the public budgets. **This privileging continues to date.**

Given the political division created by the DPA, the veteran associations quickly became a militarised wing of the ethno-nationalist political elites in power. In this context, *militarised* does not necessarily mean armed, but rather is a symbolic reference to the veterans' combatant experiences and role during the war. Their power is exerted from the fact that they could present a physical threat and the stories of their "heroism" can easily be used for mobilisation of new bodies. This mobilisation of new bodies can be seen in the examples of some of the commemorative practices that clearly involve **children**, as well as in the organizing of **military camps for children** based on patriotic narratives. The mobilisation continues through perpetuation of their "heroism" in the next generation and even entire families. The associations have been easily manipulated by the ethno-nationalist political elites in times when they have needed to manufacture heightened tensions, usually to achieve economic goals.

Worth noting is the division made between civilian victims and veterans. The relationship between the two is both gendered and hierarchical. Veterans are masculinised, seen as exclusively male, and in comparison to civilian victims of war, valued more in society and public life. Nevertheless, the veterans are not, in the post-war society, representative of hegemonic masculinity. After the war, the ethno-nationalist elites in power reshaped hegemonic masculinity, which is now represented by successful, war and transition profiteers, turned millionaires. Apart from a privileged lot, most veterans are seen as failing to adapt to new demands of masculinity. They are both praised and patronised. Their sacrifice for "the cause" that was not entirely achieved is applauded but their failure to adapt is disdained. On the other hand, civilian victims are feminised, seen as weak and reduced to passive recipients of whatever the ethno-nationalist elites have in store for them.

2.4.4. Job market for redundant ex-combatants

The failure to address militarised masculinities and to reintegrate ex-combatants into the post-war society created a considerable group of men (and few women) unable to adapt to civilian lives. The skills they developed as combatants during the war were the only skills with which they were left. In the post-war, poverty stricken country, with a non-existent support system, they were forced to look for

ways to monetise their skills. Some remained hooked to ideologies of war and destruction that were never adequately dealt with in post-conflict BiH, deploying their skills as fighters on foreign fronts, e.g. Ukraine and Syria. Some became co-opted by criminal groups, which benefited from their military experience. Some were absorbed by the new unified Armed Forces of BiH, while others were recruited by private security companies or private military contractors to jobs in the newly created neoliberal market of global warfares.

2.5. Instead of conclusions: Militarisation is alive and well!

Looking back at the entire process of disarmament and demobilisation as it was dealt with in the DPA and through its implementation, it is clear that the demilitarisation of the society was neither part of the negotiators' vision of post-war BiH nor a desirable outcome for the political elite. The militarisation merely shifted shape (and agents) to better fit the vision of what BiH was to become—in the Balkan region, in Europe, in the world.

So, where are we today?

This new militarisation is an insidious one. The whole framework of peace created by the DPA has been that a strong military, even if an international one, is the guarantor of our peace. This construction is now properly matched with the liberal understanding of peacebuilding as being taken care of through a “healthy market economy,” where the glorification of a blooming domestic arms industry comes in handy.

For years ethno-nationalist elites in power have been force-feeding people living in BiH the narrative of how development of a military industry and participation in the international arms trade is the guarantor of our economic prosperity. There is something deeply perverse in the fact that a country that itself still lives with the consequences of war, now 25 years later, considers weapons as one of its most successful export industries. BiH today exports destruction in the form of shells, torpedoes, mines, rockets, ammunition, and other weapons to countries such as Afghanistan. Our **arms exports** went from 35 million EUR in 2004 to as high as 105.3 million EUR in 2015. While, comparatively speaking, this is not a huge amount, as regards BiH export this is significant. We also import arms and are not even reluctant to do it from our neighbouring countries that were part of the conflict and continue to be part of the problem.

As for the Joint Armed Forces of BiH, they currently count 10,011 men and women, including civilian employees and reserve army. This number may not sound like much, but the costs for maintaining this machinery are high. This time around the militarisation has been marketed for women as well. With the adoption

of the UN Security Council Resolution 1325 and its subsequent operationalisation in BiH, the military elites stopped ignoring women. With support from the international community, UNSCR 1325 has been used as a tool for further militarisation, opening up the recruitment process for women and “inviting” them to become part of the now “modern and professional” army.

The main purpose of the army seems to be to serve the needs of NATO’s imperialist missions (soldiers from BiH could be found in Afghanistan, Congo, and Mali), or as in the most recent development, be a host to NATO’s demonstration of military powers. By participating in and hosting part of the US Army-led NATO military exercises “**Defender Europe**” BiH is put in the middle of dangerous geopolitical games between NATO and Russia. Furthermore, it adds to the internal conflict dynamics created by ethno-nationalist elites.

The purpose of the BiH army is to eat up 28.85 per cent of public expenditures at the state level. A recent brochure published by the BiH **Ministry of Finance** shows that at the state level, the Ministry of Defence is by far the biggest consumer of public money, spending as much as 146.9 million EUR in 2020 for just existing. Comparatively, the Court of BiH (where high level cases of corruption are to be prosecuted, as well as organised and war crimes) and the Ministry of Human Rights and Refugees (that is the only ministry at any level having explicit portfolio on human rights), together have spent little under 13.9 million EUR. The army has no purpose whatsoever, apart from providing employment opportunities to young men and some young women willing to militarise. On the other hand, the state institutions that could (but don’t!) make a difference in terms of supporting sustainable peace, are under-staffed, under-capacitated, and in the case of the Ministry of Human Rights and Refugees, don’t even have a proper mandate.

The only proper way to ensure this country (and this region for that matter) is not thrown into yet another war is to demilitarise and disarm both the country and the region! Fully and properly this time!

To this needs to be added that both Croatia and Serbia are currently **running an arms race**, which BiH is occasionally trying to participate in, unnecessarily wasting money. The fact is we can never catch up to our dear neighbours, nor should we even be trying. The only proper way to ensure this country (and this region for that matter) is not thrown into yet another war is to demilitarise and disarm both the country and the region! Fully and properly this time!

Obviously, in terms of devouring resources, the army is a problem. But at the same time the ethno-nationalist elites don’t really count on the army to do most of

their militarisation bidding. For that they have the police forces, which are divided and under the direct control of the ethno-nationalist political elites.

Consequently, the banner of militarisation is no longer exclusively carried by the army but also by the various police structures. And BiH has many. In addition to various police forces at the state level, both the Republika Srpska and the Federation of BiH have their own police forces and so do each of the ten cantons, which makes the militarisation of the police difficult to track. While the army, despite its comparatively oversized budget seems to be struggling to find the means for arms and military equipment the police forces don't seem to have the same problem. Over the years **the police have continued to militarise** through different interventions. We are witnessing an arms race between the different police forces (between the entities or even between the cantons within the Federation of BiH), with nothing less than military-grade weapons; frequent training in targeting and suppressing protests; establishment of new specialised police units and so forth. The police are looking more and more like an army, under heavy control of the leading ethno-nationalists autocrats.

Over the years the police have been used to crack down **on human rights defenders, environmental activists, workers, or citizens seeking justice**. They frequently use excessive force, in an obvious attempt to dissuade and criminalise anyone who dares to protest against the political, economic, or social order.

Recently, we have also seen examples where cantonal or entity police forces have engaged in actions against directives from state-level ministers or in the activities that have been in direct violation of the Constitution of BiH. In 2018, cantonal police forces of Herzegovina-Neretva Canton (HNC) were sent to stop the transport of the people on the move from Canton Sarajevo to HNC, in direct contravention to state-issued decisions. The same year we witnessed the parade of the entity police forces of the Republika Srpska (RS) during the marking of the unconstitutional day of RS; as well as cantonal police of Una-Sana Canton setting up check-points between entity lines to control the buses arriving to the canton in order to conduct racial profiling of people, unlawfully negating freedom of movement for people on the move. These along with other practises have been ongoing elsewhere, e.g. the Cantonal Ministry of Interior of Sarajevo Canton insisting to intervene and militarise humanitarian issues around people on the move as if these are security issues (potentially inspired by generous EU donations).

The (not so) funny thing is that the EU—the “guardian” of the peace in BiH—as well as some UN agencies, participate in the militarisation of the police. Through Pre-Accession Assistance and cross-border collaboration programmes with non-member states, the EU provides both direct funding and equipment to various police structures, or project money to the IOM (here they come again in a different

capacity!), which then uses the money to, among other things, equip various police forces.

The reason for this is two-fold. On the one hand, the EU, along with the international financial institutions, is the main driver behind austerity and extractivist policies that directly cause poverty and damage to natural resources. These are, of course, the very reasons why some of the protests happen. The EU needs the BiH governments to be able to “handle” the discontent, and for that the police “need” to be properly equipped.

On the other hand, BiH has, due to “fortress Europe” policies of the EU, become the main hotspot for people on the move along the Balkan route. The concept of (de)militarisation as applied in BiH meant replacing the military as protectors of the borders with a specially formed police branch. This of course did not mean demilitarisation of the borders but rather a new form of militarisation of the border police and borders. In recent years the militarisation has seen new worrying levels. Today the role of the border police is not just “to protect” the borders of BiH, but also—since the country is on the inner borders of the EU—to protect the EU borders as well, serving as, to paraphrase their militarised language of waging the war, the “first line of defence” against people on the move.

In the same spirit of racialised and classist protection of the “fortress Europe”, the EU is also supporting the militarisation of the police within the cantons that have been designated as bearers of the “burden” of the “migration crisis”. Through funding provided to IOM, the EU is paying highly problematic private security agencies, hired to (violently) “maintain order” within concentration camps set up for people on the move. The EU is also providing the police forces of those cantons with various types of security equipment to establish a racialised order—e.g. razor wires, ID-scanners, surveillance cameras, and vehicles used to transport people on the move from “unwanted” areas to designated concentration camps.

It is safe to say: militarisation is alive and well in BiH.

Dividing Territories and Power, Dividing Minds

The Dayton Peace Agreement (DPA), as shown in the previous essay, did not provide for the demilitarisation of the society. Furthermore, the negotiators failed to frame the DPA as a comprehensive mechanism for achieving sustainable peace. Instead, it seemed they focused on how to secure power for themselves: for ethno-nationalist elites, directly through securing ownership over territories; and for the international patrons, indirectly through (not so) concealed colonisation. To this end, they created and built into the DPA territorial and administrative divisions to confirm an ethno-national division of power created through war and violence. Along with it, they designed and installed mechanisms for the implementation of the DPA that have enabled these elites (all together) to remain in power all these years.

These territorial divisions were not benign or logical outcomes of the peace negotiations but a result of various ethno-nationalist and international elites' interests giving birth to multiple new challenges and problems.

The DPA reaffirmed BiH as a sovereign state. Nevertheless, parallel to this reaffirmation, both the peace agreement and its eleven annexes contain elements that diminish its sovereignty by reiterating the territorial divisions within the country. The understanding of the state was framed within the capitalist nation-state framework, but in the context of BiH the ethnic groups replaced nations. The functions of the nation-state were transferred to the administrative units (two entities, ten cantons, and a district). Mirroring other federal states, the state of BiH was constructed as an umbrella organisation to the administrative units. However, in the case of BiH the state was stripped of any real power and control over policies concerning everyday life! The principle of the territorial division established in the DPA, and the political powers accompanying it, have prevented proper functioning of the state, and sometimes even directly eroded it. These territorial divisions were not benign or logical outcomes of the peace

negotiations but a result of various ethno-nationalist and international elites' interests giving birth to multiple new challenges and problems. The people of BiH have been experiencing these problems in the most direct ways, on our bodies, for more than 25 years.

As a side note: we understand that this essay might be hard to follow and understand. But that is our reality to which we, as much as it is confusing and illogical, had to get used to and live with, even though we never asked for it.

3.1. Drawing maps, legitimising war crimes

Ethno-nationalist elites, who constituted themselves through war violence, desired to continue controlling at least some part of the BiH after the war. That was visible early on during the negotiations of the DPA. Also visible were the ambitions of their international patrons to secure power and influence. While the internationals used their interventions in peace negotiations to gain power and influence, the ethno-nationalist elites claimed their right to control specific territories based on the alleged superiority in numbers of a certain ethnic group on a given territory. The ethno-nationalist elites' assertion was sustainable only as long as it was accepted by the international elites. Unfortunately for the people of BiH, the international elites wholeheartedly recognized these claims. Ignored was the fact that these territories never had an ethnic majority – the “majority” they were referring to was solely achieved through war crimes.

The international confirmation of the ethno-nationalist elites' claims was an announcement of a worrying trend of international actors enabling and affirming war gains made by war criminals who start and lead wars for their own benefits. As **Zoran Pajić**, a professor of international law and former head of the Legal Reform Unit in the Office of the High Representative for BiH pointed out, the DPA negotiations effectively sent “the wrong message to warlords worldwide by implicitly legitimizing the gains of sectarian violence, which often amounted to commission of war crimes and crimes against humanity.” Ethno-nationalist elites in BiH have, over the 25 years of implementation of the DPA, cashed this in, in abundance, to solidify their political and economic power positions.

3.1.1. The “design”

The DPA affirmed the territorial gains ethno-nationalist elites obtained through war crimes and violence by formalising the territorial divisions of BiH. In fact, while isolated in the Dayton military base, huddling over maps for numerous days and nights, ethno-nationalists and international political and military elites came up with the final “design” of the territorial divisions. The result of this

design was territorial and administrative division of the country into two entities—the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH)—fully endorsing the ethno-nationalist elites false claims that an ethnic group has a particularly large presence in a certain territory. Subsequently, the DPA provided for a space to interpret the RS as an entity in control of the Bosnian Serb ethno-nationalist political elites, because the defined territory was supposedly populated by the majority Bosnian Serb population (no matter that this was the result of ethnic cleansing). According to the same logic, the space was provided for the Bosnian Croat and Bosniak (i.e. Bosnian Muslims) ethno-nationalist political elites to claim control over the FBiH, supposedly because the defined territory was overwhelmingly populated by the Bosnian Croats and Bosniaks (again no matter that this was the result of forced displacement/deportations caused by war violence).

The FBiH was further divided into cantons. The existence of FBiH, as well as the principle of its division into cantons, was already established in the 1994 **Washington Agreement** that preceded the DPA. The number of cantons and their territorial and administrative boundaries were subsequently defined in **the Law on Federal Units** (the Law) adopted in 1996. The cantons were, according to the Law, defined in line with “the principles of ethnicity, economy, geography and communications” (art.2). From the perspective of the 25+ years of implementation of this Law, and simply by looking at the map of BiH, it is beyond comprehension how anyone could think that the principle of communications or geography, or even the economy, were applicable when creating the administrative lines of some of the cantons. For example, in Zenica-Doboj Canton (ZDC), people from the municipality of Olovo have to travel two hours to get to the cantonal hospital, all while passing through another canton where the hospital is much closer. This is just one of the examples of how the illogicity of the canton administrative divisions directly affects and makes more difficult the everyday lives of people living in BiH. Thus, contrary to what the Law states, the drawing of the maps for the ten cantons was another “masterpiece” of the ethno-nationalists and international elites and their imagination of the existence of “ethnically clean” territories. This is yet more proof that the ordinary lives of ordinary people were not on anyone’s mind during the negotiations of the DPA. It all amounted to geopolitics and personal gains.

3.1.2. No time to waste

Still, back in the Dayton military base, even for very map-focused men, drawing precise demarcation lines to their full satisfaction was difficult. This exercise was time consuming as well. However, the international negotiators were in a hurry to demonstrate success—in particular the lead negotiator Richard Hoolbroke. According to what he wrote in his memoirs, Hoolbroke was under pressure to

produce a foreign policy success on behalf of his boss, the then-president of the USA, Bill Clinton, who was at the time of the DPA-negotiations starting to campaign for his re-election. “Progress” had to be made and there was no time to waste. **Just enough international pressure was applied to finish the task.** As a consequence, the DPA was reached with some unresolved issues with respect to territorial divisions.

The most significant unresolved issue was on the city of Brčko. This was to be resolved by international arbitration at a later point. Subsequently, an **Arbitral Tribunal** decided in 1999 that the city of Brčko would become an additional administrative unit, a district. The Brčko District ended up being administratively detached from either of the entities, but remained attached to the ethno-nationalist politics and entity institutions, mirroring the divisions in the country.

In retrospect, the territorial division arising from the DPA prevented logical economic planning and delivery of human rights.

Of course, territorial divisions within a country can make sense, as they can facilitate easier communication, mobility, or economic development. However, the territorial division of BiH did not reflect any of that. Neither did it reflect the previous regions of the Socialist Republic of Bosnia and Herzegovina (SRBiH), which were based on an economic development plan. Rather, as noted above, the territorial division agreed in the DPA reflected war crimes, war gains, and territorial trades. In retrospect, the territorial division arising from the DPA prevented logical economic planning and delivery of human rights. Furthermore, this division allowed the ethno-nationalist autocrats to exploit and extract people’s labour and resources in the territories over which they imposed their control.

3.2. The Constitution of BiH: Drafting the principles of ruling, legitimising discrimination

In order to ensure that the territorial divisions lasted for a long time, the negotiators (both the ethno-nationalist and the international elites) integrated the Constitution of BiH within the DPA, as its Annex 4. Having established a quota system for representation of certain ethnic groups, the negotiators made sure that even state-level institutions were filled from the ranks of ethno-nationalists (Articles IV-VIII of the Constitution). Reflecting on the dynamics of the discussions leading up to the DPA, James C. O’Brian, a US diplomat involved in drafting of the DPA, **wrote**: “It was clear from the start of negotiations that nationalists wanted to convert their wartime power into political authority. This was apparent in negotiations of

the substance of the Constitution. For example, some positions asserted on the structure of the government reflected the aspirations of particular individuals for particular offices.” So it seems that some political offices and positions were even invented to serve the political aspirations of individual members of the ethno-nationalist elites.

3.2.1. Inventing the constituent peoples to ensure unquestionable power for the ethno-nationalist elites

By enshrining the Constitution within the DPA, the ethno-nationalist elites also ensured that the Constitution matched the division of territories with ethnic-nationalistic divisions of power, ensuring proportional representation, veto powers realised through the so-called “vital national interest”, and other political privileges to the three recognised majority ethnic groups: Bosniaks, Croats, and Serbs. These ethnic groups were given a status of “constituent peoples,” which, in the context of BiH, has become a highly politicised construction, understood as awarding an exclusive and privileged status to Bosniaks, Croats, and Serbs. For example, under the current Constitution the three members of the Presidency of BiH can only come from one of the three ethnic groups; the members of the governing board of the Central Bank have to be one Croat, one Bosniak from the FBiH, and one member from RS (implying that they will be a Serb); and veto powers in the state-level Parliamentary Assembly are only awarded to representatives of the three ethnic groups through the institution of the House of Peoples consisting of three caucuses.

However, there are other unspoken rules of ethnic-based power-sharing that do not come directly from the Constitution but are claimed to be derived from it. These are based on an internal consensus of the ethno-nationalist political elites (blessed by the international community). The prevailing opinion among them is that the balancing of ethnic representation in all public institutions, even when not warranted by the Constitution, is a right derived from the territorial and administrative divisions of the country and the status of Bosniaks, Croats, and Serbs as “constituent peoples”. Consequently, their status as constituent entitles three ethno-nationalist elites to equal share of power. A tragicomic curiosity is that this “right” extends to other spaces as well, e.g. cultural and sports events. An invisible hand makes sure that the winner of the Miss BiH beauty contest, or the BiH representative to the Eurovision Song Contest, or even the winner of the National Football League Competition (as if the team has an ethnic belonging!), often rotate between the three ethnic groups, or at least come from the territories assigned as “belonging” to an ethnic group.

3.2.2. Fourteen ways to rule us all

The territorial division and accompanying divisions of power translated into potentially one of the most complicated (and expensive) governance systems in the world. The ethno-nationalist elites exercise their power through administrative units, namely entities and cantons, which were given far-reaching responsibilities as compared to state level institutions.

The territorial division and accompanying divisions of power translated into potentially one of the most complicated (and expensive) governance systems in the world.

The country has 14 (!) layers of governance. The state makes up one of the levels and is governed by the Council of Ministers with very limited responsibilities. The state level also has three presidents, to match each of the three ethno-national identities recognised as majority groups, as well as a two-chamber parliament, each with veto powers. The veto power in one chamber is based on the administrative division and in the other chamber on the ethnic principle.

The second level of governance is made up of the two entities, the FBiH and RS. These entities have far-reaching but asymmetrical powers. While RS functions as a centralised entity, the FBiH is decentralised along its ten cantons. Both entities have their own governments, parliamentary assemblies, presidents, prime ministers, constitutions, police forces, and responsibilities over the most important segments of the society: healthcare, education, labour rights, agriculture, transport, culture, and so forth. However, the government of the FBiH primarily holds the responsibility of coordination, while the real executive and decision-making powers lay within the ten cantons. The cantons also have their own governments, parliamentary assemblies, prime ministers, constitutions, police forces, and jurisdiction over healthcare, education, labour rights, culture, and so forth.

These are already enough layers to make you dizzy for a lifetime! And enough layers to waste the already limited and constrained budgets on numerous politicians, their salaries, their advisers, their cars, their bodyguards, their offices, and their comfortable lives.

These divisions make BiH a country with 13 different constitutions! In addition to these 13 constitutions there is the Brčko District with its own power sharing mechanisms and legislative and executive powers. True, the Brčko District actually has a statue and not a constitution. Nevertheless, it has its own government with mandate over health, education, labour, and so on. In the end all those, usually 14 levels of power, have their own, very often different, understandings of standards

of healthcare, education curricula, and so on, further entrenching the divisions and (re)creating differences. All of this for a little over 3.5 million people left in the country after the war.

For someone versed in political science, the cantonal divisions might look as an attempt to decentralisation. But that is not the case here, as municipalities have jurisdiction over local public spaces and buildings, public goods and natural resources. True, even those lower levels of governance have been infiltrated by the ethno-nationalist parties, but the fact is that the cantonal governments, each on its own, act as a centralised government independent of both the FBiH and the state.

As for the state level, the Constitution of BiH awarded the state the responsibility over elements that would allow the state to function within international relations, such as foreign policy, foreign trade, customs, migration, defence, monetary policy, and not to forget, lucrative air traffic control (which is still not entirely implemented). The only segment concerning everyday life awarded to the state was human rights, but even that relates mainly to the framework of political and civil rights. The access to economic and social rights, which has proven to be of greater importance for everyday life and post-war recovery, is assigned to lower levels of governance. Their implementation has thus been dependent on the “generosity” of the ethno-nationalist political elites in their respective administrative units—the generosity being dependent on the quantity of the crumbs ethno-nationalist elites are willing to give up from the exploitation of the public and natural resources.

Of course, these different layers of power and governance are mostly populated by men. Participation of women in these various structures of power was not even considered by the DPA’s male negotiators. Naturally they just thought of themselves, so they could not see how the women fitted in the ethno-nationalistic rulling discourse. The rare women who have gotten a chance to exercise power got it only if they supported the ethno-nationalist, patriarchal discourse.

Women’s chance at participating in political decision-making was left to the many donor-funded projects. Donors (e.g. UN, individual states) initiated projects on women’s participation in formal political bodies, focused on raising quotas for women’s representation, provided education and capacity building for women to vote and run for offices and so forth. These projects, aimed at increasing the number of women in formal political structures, have to date remained unsuccessful. The lack of their success is connected to the fact that those projects remain completely oblivious to the patriarchal character of the political institutions and the fact that these institutions are entirely captured by the ethno-nationalist elites and their logic of ruling, which is misogynist at its core.

3.2.3. The inherent violence of power divisions and negation of “others”

The principle of territorial and administrative divisions based on ethnicity, as demanded by the ethno-nationalist elites and accepted by the international negotiators, has been creating tensions since its insertion in the DPA. The drafters of the DPA and the Constitution of BiH were aware that until the ethnic reconfigurations achieved through ethnic cleansing and genocide during the war, the SRBiH was not divided in a way that one ethnic group was predominant, and in power, over the others. In fact, over the course of its history BiH has always been a multiconfessional and diverse country. The divisions introduced by the DPA and the Constitution of BiH effectively ignored, for example, the Jewish people who have been part of BiH's political, economic, and cultural life since their arrival to the country, seeking refuge in the wake of the Spanish Inquisition. Ignored were also Roma people, who have lived in BiH for more than 600 years, along with many different national minorities as well as people who do not identify with any ethnic group. All of them together made the fabric of the BiH society, and all of them were violently negated during the peace negotiations and subsequent territorial and administrative divisions.

The discriminatory aspects of the Constitution have ended up before the European Court for Human Rights (ECtHR). To date, the ECtHR adopted five judgments concerning discrimination in the electoral system of BiH: **Sejdić and Finci**, **Zornić**, **Šlaku**, **Pilav**, and **Pudarić**. The applications submitted to the ECtHR were formulated through the demands to stop electoral discrimination. In all of the aforementioned cases, the ECtHR found discrimination and violation of the right to vote arising out of the governance arrangements in the Constitution of BiH. The ECtHR decisions in fact clearly recognised that the current approach to the division of political power is discriminatory and in contravention with the European Convention for Human Rights and Fundamental Freedoms (ECHR).

3.2.4. Women at the sharp end of ethno-national divisions

The international and the ethno-nationalist negotiators either did not consider the impact of the territorial divisions and administrative structures on gender relations or thought of it to be gender neutral. However, the way these divisions played out has very much affected the social, political, and economic agency of women and their ability to access social and economic rights, denying them their right to equal and full citizenship.

The division of human rights obligations between the administrative levels has disproportionately affected women.

The division of human rights obligations between the administrative levels has disproportionately affected women. For example, women have been more affected by discrimination based on place of residence as a direct result of delegating enjoyment of economic and social rights to the lower administrative levels. This can be seen in the example of the discriminatory distribution of payments during maternity leave, which has differed between the FBiH and RS. In one example that was brought before the Constitutional Court of BiH, **women working in the same public institution**, but with different places of residence (e.g. one lived in RS and one in the FBiH), were entitled to different remuneration during maternity leave. After the decision of the Constitutional Court of BiH was reached this discrimination was removed from within the institutions of BiH, but it has remained elsewhere, e.g. the amount of compensation received while on maternity leave varies depending on in which canton women live.

Discrimination is also clearly visible in the access to rights by civilian victims of war, in particular women victims of wartime rape. Their ability to recover has greatly depended on accessing social and economic rights. The socio and economic rights are enjoyed at the level of entities and cantons and the fiscal space available for their implementation differs between different administrative units. What also differs is political “generosity” and willingness of the ethno-nationalist elites in power in each territory to ensure finances for implementation of economic, social, and cultural rights, which makes access to these rights directly dependent on the place of residence. The victims of wartime rape did not even have the same treatment before the law, as the legal recognition of the victims varied. While the FBiH recognised victims of rape as a special category within the category of civilian victims of war in 2006, Brčko District did so in 2012, and RS only in 2018. The discrimination of victims of wartime rape stretches from the difference in monthly amounts received in compensation for the violation suffered, to the difference in entitlement to, for example, priority in employment or housing or other social benefits.

The disproportionate effect of territorial divisions is also visible with respect to addressing violence against women, which is approached differently by different administrative units. For example, certain forms of violence against women are criminalised in one entity, while not even recognised as minor offences in the other. Data gathering is not harmonised and is consequently unusable for evidence-based policy development. Furthermore, the pace of developing a legal framework relevant for fighting gender-based violence is not synchronised.

3.3. Invading and dividing the minds

Following, at that time, the globally dominant paradigm of the “end of history” (i.e. capitalism as the supreme political economy), the DPA negotiators strictly followed this and did not even try to deploy any form of political imagination around the fundamental principles of how to govern the society. Consequently, they actively **wiped out any references to socialism** from the systems and minds of the BiH people. Instead, they imposed an identitarian, neoliberal political and economic framework. Consequently, BiH ended up with a constitution that imposed ethnic identity as the only political determinant of access to power. Once ethnicity became the exclusive carrier of the identitarian political power, any potential for ideological discussions was blocked. This led to depoliticisation of the society, which has been ongoing for the last 25 years.

Identitarian politics were primarily secured by the infamous political construction of “constituent peoples” securing almost divine-like powers to the ethno-nationalist elites. The DPA negotiators and international community built this infamous construction by granting the warring parties a constitutional category with primacy over any other identity or political claims. Already immediately before and especially during the war, the warring parties co-opted ethno-religious belonging and entire ethnic groups. Consequently the “constituent people” category enshrined in the DPA and the Constitution of BiH has been a war medal awarded to the ethno-nationalist elites to pin on themselves in peace.

3.3.1. Constructing a deeply divided society

The power-sharing mechanisms in the DPA are grounded in the idea of consociationalism, which is advocated by its proponents as the solution for countries with low levels of consensus between mutually isolated groups. According to the **theory of consociationalism**, for these countries to function, the conflicting groups must be part of a grand coalition; there has to be a mechanism that guarantees the right to mutual veto; proportional representation; and a high degree of segmental autonomy. As described above, various elements of consociationalism are clearly identifiable in BiH.

By introducing the concept of the “constituent peoples,” the ethno-nationalist political elites strengthened their claim that “mutually isolated groups with a low level of consensus between them” existed in BiH and needed to be protected. For a group to successfully compete over political and economic resources, it needs to be represented by someone. In the case of the three major ethnic groups, i.e. the constituent peoples, these someones are “naturally” the ethno-nationalist elites, who constantly occupy the representative role and leadership. On a daily basis, they assert the legitimacy and the inviolability of their right to represent “their”

ethnic group and rule over their dream castles and feudal lands they have built for themselves through the DPA.

Even though the foundation of these castles was war violence and the destruction left in its wake, the load-bearing walls of the castles were porous. Thus, once they built the “walls” around their dream castles, the ethno-nationalist elites in power had to fortify them. This fortification required the continuous creation of an illusion that the group under the supposed protection of the ethno-nationalist elites is under attack and that its rights are being endangered. The easiest way to maintain this illusion has been to keep reiterating identities created by the war and violence. Committing crimes during the war required the process of “othering” and the dehumanisation of the constructed “other”. This “otherness” was created by perpetrators adopting one ethnic identity to belong to and to “protect,” while at the same time assigning an ethnic belonging to the targeted victims. The identitarian dynamic of ethnic belonging and ethnic rivalry was easily transferred into the now formally divided society.

Any potential tensions and conflict along class or gender lines within the same ethnic group are ignored and suppressed, while inter-ethnic tensions are created all the time.

This way of dividing power attempts to erase any stratifications other than the ethnic, e.g. class or gender. Ethnic groups are considered and treated as homogenous. Any potential tensions and conflict along class or gender lines within the same ethnic group are ignored and suppressed, while inter-ethnic tensions are created all the time. In this sense the only allowed claims for justice are those within the realm of the ethnic group, i.e. the ethnic group is the only allowed claimant for justice but the claim must be made in opposition to the claim of the other ethnic group. And this is only within the framework of the three ethnic groups identified as constituent. Any individual claims or other-than-ethnic group claims are suppressed. A very vivid example of attempts to claim justice outside of the “allowed” parameters are the claims made by the initiatives **Justice for David (right to life) and Women of Kruščica (right to clean water)**, both of which were met with violent repression.

The interests of the ethno-nationalist elites, framed through the political ethnic grouping, are kept separate but yet together in a “grand coalition” through political institutions such as the parliamentary assemblies and state-level presidency. The pliable veto powers (the so-called vital national interest) that are enshrined in the Constitution and throughout the complex administrative divisions are widely used and abused. For example, the ethno-nationalist elites threaten to use them even

in matters such as the international PISA competition. The ethno-nationalist elites have also demonstrated an incredible ability to constantly create and recreate alliances and enemies.

3.3.2. The politics of forgetting: making ethnic identities exclusive political identities

The process of appropriating the concept of an ethnic belonging by ethno-nationalist elites' started a few years prior to the war, continued throughout the war, but it gained momentum with the implementation of the DPA. In order for the ethnic identities to be dogmatically accepted as exclusive political identities, we have, for the last 25+ years, been exposed to the processes of **reinvention of traditions** and **imagining of ethnic communities**, to use historians Eric Hobsbawm and Benedict Anderson's words. This "exhaustive" political work has been conducted by the ethno-nationalist elites, their ideological commissars, and religious leaders. The orientalist (**balkanist**) and neocolonial approach of the international actors in BiH, who understood their peacebuilding intervention as if on a mission to bring civilization to the uncivilized Balkan barbarians, has only upheld this work.

This process could not work on its own to keep the ethno-nationalist elites in power. It had to be complemented by **politics of forgetting** and neoliberalism. The politics of forgetting were engaged, whether intentionally or unintentionally, immediately with the start of the implementation of the DPA. The post-war period became a **paradigm of ground zero**, and involved a complete devaluation of the previous political and economic system. This meant that the DPA, no matter that it recognised the continuity of BiH, was used as if establishing an entirely new state, ignoring the fact that BiH existed as a polity prior to the DPA. Progress towards peace was understood only from the perspective of the frameworks put in place by the DPA; past knowledge, ways of doing things, and value system(s) were actively dismissed.

The politics of forgetting proved to be useful for obscuring the drafters' ambition to transit the country to a capitalist one and to hide the harms created by this new, imposed, political economy.

The politics of forgetting could be applied in the case of BiH for two reasons. One is that the international community that arrived on the wings of the DPA only knew how to reproduce its own (colonial) systems and ignored the experiences and knowledge of the BiH people. The second was the process of transitioning the country from a socialist to a capitalist economic system (hidden within the

peacebuilding process), and an underlining wish of the elites (both the ethno-nationalist and the international) to prevent people from objecting to this intentional shift in ideology.

The politics of forgetting proved to be useful for obscuring the drafters' ambition to transit the country to a capitalist one and to hide the harms created by this new, imposed, political economy. The way the Constitution assigns power and divides territories, coupled with the built-in mechanism of capitalist political economy bestows ethno-nationalist elites with power over people's everyday lives and ensures the survival of the worst type of exploitative aspects of capitalism. The Constitution helps frame all contentious political and economic issues as exclusively ethno-nationalist and obscures class-based demands and opposition to oppression and exploitation.

The politics of forgetting were widely applied, reaching all the way down to the level of human relations and interactions. The ethno-nationalist machinery worked overtime to persuade us that everything we remember about our lives were false memories; that all our (social) relationships have always, and only, been based in ethnic identitarian framework; and that somehow all of us, consciously or unconsciously, had ethnic identities as the only and true identities. We were all supposedly victims of systemic oppression imposed by a regime that negated these identities. And now, the elites assure us, we have been "liberated" from this oppressive scheme.

This process was made easier by the imposition of neoliberalism as an unquestionable global *modus operandi*. Obscuring the effects of political and economic structures on everyday life, neoliberalism has used the privileging of individual identity, understood as a form of belonging and culture, to persuade citizens that the oppressions they have been facing are not grounded in an ideology and structural inequalities but exclusively on identity. This does not leave space for an intersectional approach and recognition of different axes of oppression, especially within the ethno-nationalist heterosexual patriarchal framework. Within this logic, the only allowed justice claims are those exclusively based on individual claims, framed within belonging to a homogenous (i.e. ethnic) group that is oppressed in a homogeneous manner.

Justice claims framed in this way are exactly what the ethno-nationalist elites in BiH have been reiterating in order to create the impression of divisions and oppressions among the ethnic groups. For example, people living in poverty in BiH are being persuaded that they are not poor because the ethno-nationalist political elites are shamelessly stealing public resources and common goods belonging to all of us but because they belong to an ethnic group whose rights and needs are supposedly subordinated to the other two ethnic groups. The logic of the claim is as follows: A Croat, or a Bosniak, or a Serb is poor because they

are Croat, Serb, or Bosniak, not because, as an organised criminal group, the self-appointed representatives of those ethnic groups are blatantly stealing our common resources. True, certain identity-based justice claims are justified by historic oppression, e.g. Roma people, women or LGBTIQ persons, but these particular claims are completely ignored by the ethno-nationalists. Furthermore, these claims are also not homogenous claims, as some of the neoliberal donor-funded interventions like to simplify and present.

3.3.3. The gender dimensions of oppressive identitarian structures

The neoliberal identitarian politics upon which the entire system of BiH rests have added to the multiple layers of oppression of women. It is already well established that the ethno-nationalist projects of construction of identities are a **heterosexual male constructs and in essence are highly gendered**. They build on patriarchal and heterosexual hierarchies and norms. Women are only allowed to participate in the public life if they support nationalist projects and uphold the heterosexual, patriarchal order. The LGBTIQ persons are not allowed to participate in the public life at all. Those who do not accept the imposed ethnic identities are usually ostracised and expelled from the public space. They are forced to struggle both against these nationalist projects and the patriarchal system of oppression that is both inherent to the nationalist projects but also independent of them.

Worth noting is the interesting gendered dimension of the aforementioned applications submitted before the ECtHR regarding electoral discrimination based on identity. All but one were submitted by men, who still identified within the ethnic political identity framework as established by the DPA. The one woman who submitted an application insisted that she is discriminated against exactly because she does not have an ethnic identity. In all the cases the ECtHR found violations of the ECHR. Unlike those decisions concerning men's applications, which still rely on claims based on equality through ethnic belonging, the implication of the decision concerning the application submitted by the woman is that ethnic identity cannot be the basis for political power sharing.

3.4. Stuck in the peace agreement

The very act of including a constitution as part of a peace agreement unavoidably pulls the process of amending the constitution into a contentious discussion about renegotiating the peace agreement itself.

The Constitution, which was part of the peace negotiations and consequently the result of concessions and compromises made to and with warring elites, could not be anything else but militarised, male-centric, and ethno-nationalistic. Militarised as it was negotiated by warring parties who did not want to concede their power; male-centric as it was negotiated exclusively by male elites who did not see women as active participants in rebuilding of BiH; and ethno-nationalistic as it was negotiated exclusively by ethno-nationalist elites who understood that to remain in power they had to create ethno-nationalist political identity.

Since the Constitution of BiH was made part of the peace negotiations, any attempt to amend it has been locked into a dynamic between the ethno-nationalist political elites, their veto powers, and the international community, ending up with militarised rhetoric and threats of war. This was most clearly visible in **the attempts to amend the Constitution in 2006**, and in the **period 2011–2014** following the aforementioned decision(s) of the ECtHR establishing that the Constitution of BiH is discriminatory. The only amendment to the Constitution that ever passed was one confirming the status of Brčko District after the international **Arbitral Tribunal** made its decision. This amendment process was foreseen by the DPA.

3.4.1. Imagining, constructing, and reinforcing the divisions *ad infinitum*

Once the mind games of imagining ethnic-communities and (re)inventing traditions were made operational and ethnic identity became sanctified as political identity, the consociation, as established in the DPA, became unquestionable and self asserting. Instead of holding the fabric of the BiH society together, the consociational elements have been tearing it apart by imagining, constructing, and then reinforcing the divisions *ad infinitum*.

The ethno-nationalist elites' claims of exclusive and eternal representation of the ethnic groups have been normalised to the extent that elections, as an exercise in liberal democracy, have become only *pro forma*. The ethno-nationalist elites' "right to represent" is understood by them as set in stone. This is clearly visible from the refusal to implement the decisions of the ECtHR regarding electoral discrimination. Even though the ECtHR has repeatedly confirmed its position, the ethno-nationalist elites have refused to amend the Constitution of BiH and the Election Law in accordance with the ECtHR instructions and have continued with the practice of discrimination and human rights violations. And the international community has happily been accommodating their wishes.

3.4.2. The stringency and inflexibility of the Constitution

In its Article X the BiH Constitution provides for possibilities of amendments. But as demonstrated in the past 25 years, amending the Constitution has turned out to be almost impossible. Over the years the “Dayton Constitution,” due to the performative “blind trust” of the ethno-nationalist elites in the DPA, has been treated as untouchable, almost dogma.

The performance of ethno-nationalist elites in blindly trusting the letters of the DPA is aided by the fact that neither the DPA nor the Constitution were officially translated to the languages spoken in BiH. They were never even officially published or confirmed by any official procedures in BiH, for that matter. This means that the official language of our Constitution, and the peace agreements, is English. Apart from this fact being almost funny, this is also hugely problematic. It has allowed for various interpretations/translations of those documents, and claims from the ethno-nationalists that “their” understanding is the most accurate one, despite their somewhat lacking proficiency in English! Of course, to be added to this whole linguistic charade is the fact that the **original DPA**, with signatures, is nowhere to be found.

To aggravate matters even more, the fact is that the Constitution of BiH never passed parliamentary procedure, nor was it ever put to popular vote. Rather, it was bestowed on the people, not as a matter of choice or discussion, but as a foregone conclusion.

One would imagine that a document that sets the fundamental principles of how a country is to be governed should be drafted and agreed upon by the people it concerns.

However, this possibility was taken away from the people of BiH when the Constitution of BiH was made part of the DPA negotiations. Immediately after the war, people living in BiH were tricked into accepting the constitutional arrangements from the DPA under the pretence of participating in the first post-war democratic exercise of election, which has only further complicated chances to challenge the imposed political and economic solutions.

Going back to the DPA negotiations during which the Constitution was drafted, if we are to believe the leading US diplomat at the time, **Richard Holbrooke**, the discussions on the draft Constitution were limited. The predominant occupation of the negotiating elites were the maps and the territories. It is possible to imagine that once the negotiating elites agreed on the principles of division the actual task of writing the Constitution was assigned to mid-level diplomats in

the State Department, and no weight was given to the practical implications the Constitution would have on our lives. Furthermore, the form of the Constitution of BiH is more reminiscent of the Constitution of the USA than of any previous constitutions BiH had.

3.4.3. The performative function of “democratic” elections

The DPA in its Annex 3 (Agreement on the Elections) provided for holding elections immediately after the war “to lay the foundation for representative government and ensure the progressive achievement of democratic goals.” Using the liberal logic of peacebuilding, the elections were seen as an ultimate step for democratic functioning of the state, and were presented as a sort-of starting point of the “new” post-war and peaceful BiH. The elections (several of them in very short time span) were held in accordance with the power divisions created in the DPA and were misused to persuade people that by participating in the elections they had a say in the future of BiH—a gaslighting tactic, used jointly by ethno-nationalist and international elites, which has continued throughout these 25 years. However, we need to note here that, while the elections are indeed an important part of a functioning, democratic society, they cannot be an exclusive mechanism for practicing democracy. One cannot build a democratic society only on “democratic” elections while everything else, including the imposition of the Constitution, is authoritarian.

One cannot build a democratic society only on “democratic” elections while everything else, including the imposition of the Constitution, is authoritarian.

The DPA tasked the international community to organise the first post-war elections, particularly the Organization for Security and Cooperation in Europe (OSCE). The elections were planned for 1996 (six months after the signing of the agreement!), but the international community struggled with the overall political and security conditions in the country. Consequently the elections had to be postponed until 1997.

When the elections took place, the citizens of BiH were asked to choose representatives for the governing bodies defined by the new Constitution. By participating in the elections, even though unaware of this, people were co-opted and pushed to silently agree on the constitutional arrangements without ever being asked what they thought of those “arrangements”.

In the end, the ethno-nationalist elites’ efforts during the negotiations of the DPA proved to be successful. During the elections those already active in political

life during the war, i.e. ethno-nationalists, were given the majority of the votes. They already had adequate political infrastructure, finances, and “legitimacy” arising from participation in negotiations of the DPA. Given that these same parties were parties to the peace agreement, there was really never a question whether or not they would be “elected” in “free and fair” elections. The way all of this played out demonstrates how important it is to be recognised as an actor in peace negotiations. Once recognised, there is no limit to how much economic and political power and resources you can secure for yourself.

3.5. Instead of conclusions: Not a country but ethno-nationalist fiefdoms

It is worth repeating that the ethno-nationalist elites that established themselves as power-holders through war and destruction formalised their power positions through peace negotiations, under the auspices of the international community. The ethno-nationalists used the framework of the peace agreement to assert their “sovereign reign” over a group of people upon whom they imposed an ethnic identity as a political identity.

To make the situation worse, the international community—in all its variations—continues patronising the people of BiH by pretending that they had nothing to do with the mess created in the Dayton military base. It has been crystal clear for many of us, for a long time now, that the peace agreement has been a bad deal for the vast majority of the people of BiH.

Due to the institutionalisation of ethnic identity as the only possible political identity, we are now even a more divided society than we were immediately after the war. Even though the territorial boundaries are not visible, the multiple divisions across political, economic, and now also increasingly social lines, are strong. Any political interventions, movements or projects trying to oppose this divisive framework has to date resulted either with co-optation, replicating and supporting this system, or with total failure.

For example, a political party trying to affirm itself in political discourse as a non-ethnic party has ended up either redefining itself as a political party supporting ethno-nationalist discourse and agendas, or it has quickly and completely disappeared from the political stage. At the same time, none of the parties, whether openly claiming to be ethno-nationalist or denouncing it, have opposed the neoliberal and capitalist agenda.

Furthermore, new generations of politicians who have been groomed in the “old” ethno-nationalist parties are leaving them, only to form their own political parties. For those who are ignorant of the situation in BiH (as the international community

seems to be by default), this might seem like these, usually younger, politicians are rebelling against the old ways of the ethno-nationalists. However, in reality the “new” parties and politicians are usually bringing in a new “variant” of nationalism, one that is even more conservative and far-right. The “new” political options are still neoliberal and in agreement with the international politics of sovereign debt accumulation and austerity.

This is a result of insisting that the conflict in BiH society is exclusively an identitarian one, while class relations in a capitalist state are entirely negated. It is not that there are no opposing ideological views, but they simply cannot exist at the level of the political parties, given how the electoral system is framed.

What’s more, the awarded segmental autonomy (territorial and administrative division), along with other traits of consociationalism, have helped strengthen the positions of ethno-nationalist elites. Twenty-five years later, they consider themselves “rightful owners” of this country (or at least the parts of the territory they claim “belongs” to the ethnic group they claim to represent, and consequently themselves). The ethno-nationalist elites in power act as if the administrative units over which they have political power are their private properties, their fiefdoms. They have carved up amongst themselves public property, infrastructure, and resources of the country.

In order to continue to enjoy and reap the benefits of the profiteering and sovereign rule over their flock, the ethno-nationalist elites have reinvented traditions and reimagined communities. Supporting these power claims are the politics of forgetting deployed by the international community through their neoliberal interventions and by the ethno-nationalist elites’ manipulations of past endangerment of the ethnic groups they claim to represent. Individual self-proclaimed ethno-nationalist leaders have also frequently alleged oppression of entire groups because something did not go the way they, personally, wanted it to go. Somehow this has worked for the last 25+ years!

The territorial and political divisions institutionalised by the DPA have created visible and invisible lines of separation, making it almost impossible to imagine anything different anymore. The result of the manipulations, the (re)imagining of the ethnic identities, and the imposed politics of forgetting is not just that those ethnic identities and divisions are normalised as political identities and exclusive “owners” of political, economic, and cultural spaces, but also that our minds are invaded by primordial and a historical understanding of ourselves. We have become nothing but a sum of our (imposed) ethnic identities and war violence, unable to imagine a society built on any other collective grounds but ethnic. The result is a highly depoliticised society under tight control of autocratic rulers and their heirs.

Experimenting with Neocolonialism: Civilian Administration of the Peace Agreement

The previous essays dealt extensively with the military aspects of the Dayton Peace Agreement (DPA), showing how the DPA negotiators lacked vision and interest to fully demilitarise the society in order to create conditions for sustainable peace. We also focused on the mechanism deployed to preserve the gains of war: the ethno-nationalist authoritarian system. Our previous essays also revealed how the DPA created space for experimenting with neocolonialism. In this essay we continue with deconstructing neocolonialism and how it functioned within the parameters of the implementation of the DPA.

To understand how the neocolonial experiment was shaped, and its full ramifications for Bosnia and Herzegovina (BiH), we take a look at the parts of the DPA that deal with the so-called “civilian aspects of the peace settlement”. These are the parts of the DPA that deal with “a wide range of activities including continuation of the humanitarian aid effort for as long as necessary; rehabilitation of infrastructure and economic reconstruction; the establishment of political and constitutional institutions in Bosnia and Herzegovina; promotion of respect for human rights and the return of displaced persons and refugees; and the holding of free and fair elections” (see **Annex 10**).

These civilian aspects, in similar ways as the military aspects of the agreement, lacked a vision and interest to transform the structures of domination of ethno-national identities and social hierarchies created by war and patriarchy. In fact, the civilian aspects of the DPA were designed to support the only transformation the negotiators foresaw for BiH: a shift from socialist to capitalist political economy and an establishment of an international protectorate. To support this transformation, the DPA negotiators clearly foresaw a role for the international community (IC).

Some of the activities of the IC have been helpful for preserving peace, especially the interventions made immediately after the war and directed at addressing the consequences of the war. However, we have to ask, why has the international community, which arrived in BiH to supposedly support the immediate implementation of the peace agreement, remained a permanent actor in the BiH’s

economic and political structures? And for whose benefit? Spoiler alert: not for the benefit of the people living in BiH but for the benefit of the elites represented at the DPA negotiations—that is, international and ethno-nationalist elites. In this essay we will use the civilian aspects of the DPA to unpack international neoliberal approaches and experiments of the IC with neocolonialism and imperialism.

4.1. Colonisation through peacebuilding

Under the framework of peacebuilding, the DPA inserted the IC into every aspect of our society and our lives, awarding it very broad protectorate powers. The IC consists of a variety of international multilateral organisations, international non-governmental organisations, embassies, international financial institutions, special representative bodies, and similar. However, understanding exactly what, or who, makes up the IC is not that straight forward.

The DPA left open a space for different interpretations of the meaning of the IC. In certain parts, the DPA made specific references to specific organisations, assigning them specific tasks for specific periods of time. In other parts, the DPA is not so specific, laying ground for an amorphous IC that could draw its mandate from everywhere and everything, for as long as deemed necessary. In BiH public discourse the IC is frequently referred to as mighty power-holders. This power in some segments of political, economic, and social spaces is real, but many times it is arbitrarily claimed or assigned.

Many aspects of the amorphous nature of the IC and the way it has extended and retained its authority over political, economic, social, and cultural processes in the country resembles colonialism. BiH has had a long history of oppression by various colonial powers, but this time neocolonialism has played out somewhat differently. This time the coloniser came under the cloak of a peacekeeper and not of a conqueror. The coloniser has not been an empire but always a combination of several countries, acting either in coordination or in discordance. This new form of colonialism has been allowing not just certain political elites and corporations to benefit, but also for global geopolitical rivalry to take place within the country's internal political, economic, social, and cultural structures.

It is important to highlight that our critique of the IC in this essay is feminist, anti-colonial, and anti-capitalist. It opposes the ethno-nationalists' views expressed in relation to the IC, which are clearly chauvinist and are in the service of preservation of conflict and fortification of their positions.

There is a need to engage in a critical discussion on the presence of the IC in BiH and its neocolonial character but this discussion must be free from the influence of the ethno-nationalist discourse. It is important to highlight that our critique of the IC in this essay is feminist, anti-colonial, and anti-capitalist. It opposes the ethno-nationalists' views expressed in relation to the IC, which are clearly chauvinist and are in the service of preservation of conflict and fortification of their positions.

4.1.1. Between ethno-nationalist autocrats and international custodians

Over these last 25+ years the IC has been very resourceful and innovative when it came to expanding its mandates. In a well-rehearsed performance with ethno-nationalist elites (and never without them) that had its premiere during the DPA negotiations, different organisations have broadened their mandates beyond recognition. This is particularly true for those international organisations that were named in the DPA. However, parts of the IC have, over time, claimed mandates that could not be traced back to the agreement. The extension and broadening of these mandates has meant a perpetual influx of new projects and subsequently new project funding. The lack of transparency in the evolution of the IC's presence in BiH has also been complemented with further strengthening of the ethno-nationalist elites in power. Ethno-nationalist elites have used the lack of transparency around the IC's mandate(s) to create tensions, and these tensions in return have been providing excuses for both the ethno-nationalist elites and the IC to remain in power eternally.

The longevity of the IC's presence in BiH is also enabled by what the historian Maria Todorova calls **Balkanism**. Part of the Balkanism phenomenon is seeing the violence and divisions as natural and deeply ingrained in the psyche of the Balkan population. Balkanism is regularly used as an excuse by international elites to keep their share of power, presenting themselves as "facilitators" between the "tribes" that are "violent, wild and in constant conflict with each other". **Claims** are frequently made that only international actors can save us from ourselves; these claims have always, and only, understood the context of BiH in the framework of ethnic antagonism.

The IC and the ethno-nationalist elites continue to enable each other, acting in coordination and insisting on preserving political and economic structures created by war violence.

The neocolonialism established in the DPA is a layered and multifaceted endeavour. The IC and the ethno-nationalist elites continue to enable each other, acting in coordination and insisting on preserving political and economic

structures created by war violence. Sometimes they act together, sometimes side-by-side, and sometimes in seeming collision with each other. Their joint enterprise reminds us of the dynamics between parents and their children. It is reminiscent of situations when children repeatedly test their parents' authority and power, greedily demanding more sweets and toys and the parents always end up awarding the children "the toy" they want. The constant quarrels that children start, without any particular reason, are proof that the children are far away from their adulthood, which is an excuse for the parents to keep parenting. This is a role that is not without its benefits. The parents do not look for new solutions but are stuck on extending their right to exercise authority. When you have three spoiled children, and several parents (who sometimes get along and sometimes bicker among themselves), the combinations are plentiful.

The presence of the IC also provides fuel for the never-ending discussion about the "proper" implementation of the DPA. Ethno-nationalist have been continuously bickering about what decisions or institutions are in accordance with the DPA, regardless if that topic was part of the DPA or not. This keeps the BiH society constantly stuck within the framework of a peace agreement, never moving beyond the war narrative! These quarrels lead to a discussion about who is "privileged" and who is "chastised" by the IC. Given that there are three sets of ethno-nationalist elites, one of those is always claiming that their actions are in line with the IC's wishes and can thus expect to be rewarded. In that case, at least one set of the ethno-nationalist elites is going to claim that the IC is either biased or acts outside of their mandate. All of the above leads to a discussion about what the departure of the IC would mean for BiH, the incorrect underlying assumption being that the IC is guarantor of existence of the state or of peace. In fact, all of the dynamics that take place in relation to the IC's presence in the country point to the IC only being a guarantor of capitalism and a combined ethno-nationalist elites' and IC's eternal rule in the country.

As for the so-called ordinary Bosnian and Herzegovinians, well, we are stuck indefinitely with ethno-nationalist autocrats and international custodians. We have been doomed to live in a country run by spoiled and greedy children and their self-absorbed parents. They all keep telling us that they are working for our benefit, while their personal bank accounts grow and their careers advance. In the meantime, all of their "good work" has resulted in the depletion of the common good and public resources, pushing the BiH society further and further into inequality, oppression, and exploitation.

4.1.2. Emissaries of neocolonial peace

Even though the DPA created space for just about any interested international entity to claim its piece of the IC's cake, in certain parts, the DPA identified specific international organisations as implementers of specific tasks. The agreement specifically mentions the Organisation for Security and Co-operation in Europe (OSCE) and gives it three tasks: to help guide the negotiations to bring about regional stability (**Annex 1-B**); to supervise the preparations and conduct of free and fair elections (**Annex 3**); and to monitor, observe and report on human rights (**Annex 6**). Within the framework of its human rights mandate, the Chairman-in-Office of OSCE was also to appoint the first Human Rights Ombudsman. The **OSCE Mission in Bosnia and Herzegovina** seems to have been really flexible in understanding the awarded mandate and has, over time, broadened it to include things such as border management, combating human trafficking, conflict prevention and resolution, education, counter terrorism, gender equality, and so forth.

Other international organisations and multilateral bodies were also given specific tasks by the DPA. In addition to OSCE, the DPA also invited the United Nations Commission on Human Rights, and its High Commissioner, to monitor the human rights situation in BiH (Annex 6). The United Nations High Commissioner for Refugees (UNHCR) was to assist in development of a repatriation plan for the many BiH refugees scattered across the world, in consultations with asylum countries and the parties to the agreement. The repatriation plan was to assist an “early, peaceful, orderly and phased out return of the refugees” (**Annex 7**). Annex 7 also mentions the International Committee of the Red Cross (ICRC) and the United Nations Development Programme (UNDP) along with all “other relevant international, domestic and nongovernmental organizations”. They are given tasks in tracing persons, provision of humanitarian assistance (e.g. medical assistance, food distribution, temporary and permanent housing) but also monitoring of basic human rights and humanitarian conditions. In a similar manner as the OSCE, the involvement of the UN expanded far beyond the aforementioned agencies without any thought through strategies. The UN agencies kept coming to the country, expanding their projects and mandates, focusing more on how to stay as long as possible rather than thinking through what would support sustainable peace.

In addition, the DPA contains an annex specifically dealing with civilian implementation, i.e. **Annex 10**. It establishes an ad hoc international institution to facilitate and coordinate efforts around civilian implementation of the peace agreement, namely **the Office of the High Representative** (OHR), which is led by a High Representative (High Rep). The first High Rep was Carl Bildt, a Swedish diplomat. Before the appointment he was the **European Union's** (EU) Special Envoy to the **Former Yugoslavia**, a position he only held from June 1995 up until signing of the DPA.

Although the OHR is an international body, all of its seven High Reps have come from European countries; they have always been male; and their mandates have been relatively short, spanning from 1.5 to 3.5 years, apart from the most recent previous High Rep, who came to BiH in 2009 and held the position for over 12 years! The High Reps have come from Spain, Austria, United Kingdom, Germany, and Slovakia. The current High Rep, again a German, was appointed in May 2021 and took up office in August 2021. As it is appropriate when a new protector arrives, **a red carpet** was rolled out upon his arrival so that the entire diplomatic corps along with BiH people from the political and public life can come and pay him their allegiance (as in previous dynamics the absent were parts of the ethno-nationalist elites that are currently chastised).

This lack of transparency provided yet another platform for ethno-nationalist elites to spin this very clear colonial approach to their benefit.

The appointment of the latest High Rep showed how irrelevant the BiH people are for the IC. The nomination of the new High Rep was something that we learned **through the media**. To us as outside observers of the IC's actions, it appears that the out-of-the-blue nomination of a German politician came as a result of Germany's need to wrap-up its diplomatic appointments. We can imagine how this particular individual was left without a diplomatic post assignment, and given that retirement was not an option for him, a post had to be made up. It seemed as if suddenly they remembered that there is this position in BiH that one guy has been sitting on for more than 12 years! He seemed bored after that many years in BiH and maybe ready for retirement?! So why not initiate his replacement?! On a more serious note, this so-called election process was once again not transparent. This lack of transparency provided yet another platform for ethno-nationalist elites to spin this very clear colonial approach to their benefit.

It is worth reflecting that this new High Rep seems to be coming with an additional mandate to protect the interests of the European Union (EU), specifically in relation to recent **EU's obsessive racist politics of migration management**. We draw this from his **statement** in which he talks about his goals as the High Rep. He stated that his greatest success would be if he could be the last High Rep, "handing over" a democratic BiH with secure borders (!) and orientated towards the EU. It is not clear to us to whom he is to "hand over" BiH since we have already learnt that they never think of citizens of BiH in such situations. So he is either talking about handing over the country entirely to the ethno-nationalist elites and their feudal rule, or to the IC to rule without the office of the High Rep. While we still have time to think about who the country is going to be handed over to, it is clear that the current High Rep represents the interests of the EU. More so as in

this statement he clearly spells out “secure borders” as an OHR priority, which has more to do with the EU’s racist border policies than with peace in BiH.

The mandate that the DPA in its Annex 10 gives to the OHR is broad: to monitor the implementation of the peace settlement; to maintain contact with the parties to the agreement in order to ensure their compliance with all civilian aspects of the peace settlement, and to ensure their cooperation with each other and the other actors participating in the implementation; to coordinate the activities of the civilian organisations and agencies; to facilitate, as seen necessary, the resolution of any difficulties that may arise during the implementation; to participate in donor conferences and meetings; and to report periodically to the United Nations (UN), EU, United States (US), Russian Federation, and literally everyone else interested.

While the deployment of the troops as peacekeepers was expectedly an exclusively male endeavour, the civilian administration was also a highly male venture.

Worth noting is that the international obligations in the mid 1990’s were still without the women, peace and security framework. While the deployment of the troops as peacekeepers was expectedly an exclusively male endeavour, the civilian administration was also a highly male venture. Immediately after the war (and for a considerable extended time) all the tasks regarding the implementation of the DPA were given to men: the High Rep, the head of OSCE, and the head of the UN mission. To some extent this has changed in recent years, but women in high level positions are only those that comply with the neoliberal, patriarchal standards of diplomacy, international relations, and colonialism.

The DPA mentions other international organisations, but in the capacity of appointers of foreign nationals to various BiH institutions. The Council of Europe was to appoint the President and some of the members of the Human Rights Chamber; the European Court for Human Rights to appoint three members of the Constitutional Court as well as members in other human rights related commissions; the International Monetary Fund to appoint the governor of the Central Bank; the European Bank for Reconstruction and Development to appoint the Chairman and some members of the Commission on the Public Corporations; and finally, the UNESCO to appoint the Chairman and some members of the Commission to Preserve National Monuments. In all of these domestic institutions, the arranged composition was done according to the same principle: the head or the chief of the commission/institution was always a foreign national, while the positions reserved for nationals were reflective of the ethno-nationalist administrative divisions (read more about administrative divisions in [essay 3](#)). Where possible, the foreign national was given the deciding vote, reflecting the colonial distrust towards the competencies of the locals supported by the balkanism discourse.

As regards the gender composition of the international appointees in BiH institutions, the classical patriarchal power relations were at play. The segments considered to be less important were assigned to women, while men were given more powerful positions. For example, the governor of the Central Bank and the head of the Commission for Public Corporations were male. The positions filled by women were related to cultural issues and human rights. Women were appointed to the Commission for Preservation of National Monuments, and the head of the Human Right Chamber was female.

Today, the only remaining international appointments are those of the judges to the Constitutional Court of BiH made by the European Court for Human Rights.

4.2. “Steering” the peace – the protectorate that is (not)

In between agreeing (in Dayton, 21 November 1995) and signing (in Paris, 14 December 1995) the DPA, a Peace Implementation Conference was held in London on 8 and 9 December 1995. The road taken towards the peace agreement for BiH was that of the centuries long (imperialist!) practices of peace conferences, rather than through the mechanisms provided by the UN Charter. This time around the topic of the conference was not about divisions of the conquered territories between imperial powers, but the logic the IC deployed was that of securing soft powers through donor-recipient relations.

The conference established the **Peace Implementation Council (PIC)** that took upon itself to review progress and define the goals of the peace implementation process. The PIC has been made of 55 countries and agencies and a fluctuating number of observers. The PIC members have been countries and agencies that actively engaged in supporting the peace process in BiH, whether financially, with troops or directly running operations in BiH.

In addition to establishing the PIC, the London conference also established the Steering Board of the PIC to provide the High Rep with political guidance. The PIC Steering Board has 11 members. The PIC Steering Board consists of: Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, the United States, the Presidency of the EU, the European Commission, and the Organisation of the Islamic Conference, which is represented by Turkey. While it is not entirely clear to us why all these specific countries have been involved in “steering the peace” in BiH, the geopolitical nature of influence through cultural and ethno-national determinants is clear for Russia, Turkey, the US, and the EU (and sometimes the UK and Germany as individual countries).

For us in BiH, especially those living in Sarajevo, those meetings are marked with traffic congestion created by a cordon of diplomats' cars and their security. Other than that, we rarely remember that they even met.

Within these 25 years of peace implementation, the PIC met five more times at the ministerial level: in Florence, June 1996; London, December 1996; Bonn, December 1997; Madrid, December 1998; and Brussels, May 2000. The Steering Board has been meeting biweekly at the level of the Ambassadors to BiH, and twice a year at the level of political directors. Most of the time the so-called political directors are usually personified in high level political figures of their countries or institutions. For us in BiH, especially those living in Sarajevo, those meetings are marked with traffic congestion created by a cordon of diplomats' cars and their security. Other than that, we rarely remember that they even met.

The PIC Steering Board has been exercising its powers through applying political and economic pressure on the ethno-nationalist elites who have proven to be dependent on both financial and political support they receive from some of the countries or organisations represented in the PIC. The most influential countries in the PIC Steering Board have also been amongst the biggest donors and creditors of the BiH state. As such those countries have exercised subtle but firm economic influence in the country, and over at least one of the ethno-nationalist elites.

The PIC is not a homogenous body and PIC Steering Board meetings are often affected by geopolitical turbulence. Consequently, BiH has become a theatre in which the competition for military superiority between the North Atlantic Treaty Organisation (NATO) and Russia has played out regularly, and in recent times increasingly.

4.2.1. The Bonn powers – a punishment for the unruly children

The implementation of the DPA started with lots of confusion as regards the powers and mandates of the international organisations. Apart from those that were already in the country, many, many more arrived. When it came to awarding powers and tasks, as written above, the DPA was explicit only in relation to few of them. Other than that it was mostly vague, allowing for competition over influence and power of the direction of the peacebuilding in the country. The first High Rep, **Carl Bildt, complained** to PIC that the IC had no political strategy for implementation of the civilian aspects of the peace agreement. He further argued that too many actors and too many centers of power within the international structure, growing around the DPA implementation, were making his job impossible. The mix of vagueness, ambiguities, and power

struggles within the IC was enriched with the always (dis)obedient, (un)satisfied, and quarrelling ethno-nationalist elites who considered that they should only be privileged and never chastised.

The solution to Carl Bildt's complaints were the so-called Bonn powers, named after the **conference in Bonn in 1997**. At the conference, the PIC confirmed its support to "the High Representative's intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of difficulties by making binding decisions, as he judges necessary". The binding decisions were limited to the following issues: timing, location, and chairmanship of meetings of the common institutions; and situations when the parties were unable to reach agreement, at which point the High Rep could introduce interim measures that were to remain in force until the Presidency or the Council of Ministers adopted a decision consistent with the DPA. The so-called Bonn powers also allowed the High Rep to introduce other measures that might include actions against persons holding public office or officials who were by the High Rep found to be in violation of legal commitments made under the DPA. As when dealing with unruly children who skip a school class, the High Rep has also been allowed to use Bonn-powers to punish those who were absent from meetings "without good cause".

Up until 2012 the OHR used the Bonn powers **899 times**. A lot of these decisions related to removal of public officials. According to the High Rep, those officials were in violation of legal commitments made under the DPA or the terms for its implementation. One of the recurring causes for removal was obstruction of the refugee return process. The removals affected officials at various levels, including mayors, ministers, members of the Presidency, heads of intelligence agencies and so forth. At the beginning, the removal of the officials meant that the removed person was prohibited from performing any public duty and/or holding any leading position in a political party. Later, the High Rep gradually limited the usage of his own powers to the removal of persons from public office, but not from activities such as leading a party or managing a public institution.

After 2012 a long break in using the Bonn powers was taken and it is only recently, in July 2021, that they were used again – maybe to round up the number to 900?! A few days before his departure, the previous High Rep, finally after more than 12 years of his rule (!), decided to intervene in widely present glorification of war criminals and genocide denial in the political discourse and public narrative in BiH. He suddenly reemerged from his winter sleep and **decided to use the Bonn powers**. He introduced amendments to the BiH Criminal Code, through which the glorification of war criminals convicted by final and binding judgments and the denial of genocide, crimes against humanity, and war crimes became sanctionable.

However, we have to express our doubts here that the High Rep was acting out of his whim and suddenly used the Bonn powers for commonsense. Most probably he had the backing of the wider IC. The timing of the intervention came in a specific period when both autocratic ethno-nationalist regimes and neocolonial international elites have started being questioned by the people of BiH through different protests and demands. In the moment where people have become acutely aware of the looming economic crisis caused by the years of ethno-nationalist and international corruption and heightened by the COVID-19 pandemic, the High Rep introduces amendments that legal analysts have already said will be **difficult to implement** (as we are already seeing in for example the enforcement of criminal provisions relating to the non-implementation of the decisions of the Constitutional Court of BiH and judgments of the European Court of Human Rights). Not only are the amendments vague, leaving much space for legal interpretations, but it is also unrealistic and naive to think that an already weakened judiciary can be an efficient tool for dealing with widespread hate rhetoric and fascist politics. At the same time, his use of the Bonn powers provided a perfect opportunity for the ethno-nationalist elites to blast out their fascist ideologies, consolidate their echelons, and reaffirm their separatist claims. This intervention has reinvigorated the claims of both the ethno-nationalist elites and the IC that their presence is needed—the ethno-nationalists to protect the ethnic groups and the IC to protect the peace. Yet, this is the very same narrative that has been present for the last 25 years, during which neither peace nor the ethnic groups have been protected.

The High Rep's intervention also comes in the context of increased engagement of the IC with respect to the **widespread corruption** among the political elites. The intervention shifted the narrative from talking about corruption among the political elites to the need to safeguard the interest of the ethno-national groups. Secondly, the intervention came in the midst of the ongoing **discussions on the amendments to the Election Law**. It opened up a space for what Naomi Klein refers to as “shock doctrine”—the usage of violent or shocking events to push through policies that would otherwise be met with opposition. In BiH terms, the violent or shocking event is the so-called political crisis. It is now used to amend the Election Law, favouring the solutions proposed by the ethno-nationalist elites that are in contravention to the judgments of the European Court for Human Rights (for more details see our [essay 3](#)).

Finally, the sudden use of the Bonn powers comes immediately after the failed intensive Russian-Chinese **campaign to close the OHR** (which is coordinated with Serb ethno-nationalists). The intervention provided the proof that the OHR is still needed to preserve the peace. Unfortunately for us, the currently proposed closure of the OHR is driven by the Russian-Chinese ambitions to fill the space that would be left open by a retreating US-EU coalition in BiH (symbolised in the OHR) and not

by an honest intent to make the country functional and ensure a sustainable peace. The people of BiH are again left with a choice between two evils.

Despite the rhetoric of both the ethno-nationalist elites and the IC of an “ongoing political crisis,” the fact is that causing and perpetuating political and economic crises is the modus operandi of the ethno-nationalist elites and the IC. This “new crisis” is hardly new. The crisis mode has been our normal since the war.

4.2.2. No political risks taken!

However, the Bonn powers were not just used against unruly individual ethno-nationalist politicians. Using the ability to impose binding decisions in situations when the parties were unable to reach agreement, the High Rep also used his Bonn powers for imposition of laws. The imposed laws varied in their topics. They included amendments to the entity constitutions, decisions on the laws concerning “identity determination” (e.g. flag, symbols, citizenship, anthem, and similar), registration plates, state currency, taxation laws, criminal laws, establishment of judicial institutions and procedures for appointment of judges and prosecutors. It is worth noting that the use of Bonn powers was extensive, in particular when it came to the economic and legal system. For example, the laws on taxation, benefit payments, and privatisation, drafting of which should contain all the usual political and ideological dynamics of a multiparty system, were also imposed by the High Rep.

It is worth noting that the use of Bonn powers was extensive, in particular when it came to the economic and legal system.

The imposed laws were not necessarily in direct connection with the implementation of the DPA, unless imposing capitalism was understood as the task arising out of the DPA! The London Peace Conference in its **conclusions** clearly spelled out that the peace should result in an “establishment of an open, free market economy”. Consequently, the laws, reflective of the predominant neoliberal ideology among its (international) drafters and their intention to transform the society into a market economy, were imposed as interim measures and later passed through the parliamentary procedure. As it turned out, it was mainly the ethno-nationalist elites who had the direct benefit from such transformation, along with big corporations, which sold their branded products, and international finance capitalism.

A very interesting dynamic was created: laws frequently had to be imposed by the High Rep before they could be smoothly passed in the parliament. Ethno-

nationalists in power, who in fact benefited from the laws that were unpopular among their constituencies, e.g. increases in Value Added Tax, could not publicly support such laws as they risked losing segments of power or their voters. In such a situation, the ethno-nationalists would manufacture “an opposition” to the proposed law and prevent agreements from being reached through normal parliamentary procedures. The High Rep’s hand then would be forced, whereby the process of using the Bonn powers and imposing laws would become a fact.

The Bonn powers undoubtedly created a very dynamic (political) playground for the ethno-nationalists, many of them emerging stronger than ever, after the Bonn powers had been used.

The ethno-nationalists could thus claim the imposed law was not their political solution, that they are powerless to do anything about it, and if it suited them, paint a picture of themselves as “defenders” of “their” ethno-national group’s interest. However, once the law was imposed, a sudden change of heart would take place. The ethno-nationalists would proclaim the law to be in the interests of the ethnic group they claim to represent. The ethno-nationalists would then use both expedient and standard procedures, depending on the topic but also on the level of urgency, to adopt the law. The Bonn powers undoubtedly created a very dynamic (political) playground for the ethno-nationalists, many of them emerging stronger than ever, after the Bonn powers had been used.

The created dynamic was that of parents making their children perfidious: no matter whether the children were capable of doing their homework on their own, it was more beneficial for them to wait for the parents to do it instead. In this way, the ethno-nationalists elites took no political risks but caused significant damage to society, further depoliticising it. The way the laws were passed not only relieved the ethno-nationalists of the responsibility to their constituents but it also relieved the constituents from actively engaging in the decision-making process about their future and the society in which they want to live. The High Rep and the entire IC have been more than willing to play this game, as it also shrunk the space for development of a functional political opposition that could challenge the imposed capitalist ideology formulated around peacebuilding.

4.2.3. The European Union – the new superhero in town

Some seven years into the establishment of the office of the High Rep, the person performing the duty, as if he was some Marvel superhero, got one more super power. In 2002, in addition to having the powers and mandate arising from the DPA and its implementation, he also **became the European Union**

Special Representative in BiH (EUSR). The High Reps performed this double duty until 2011.

In 2011 the two offices (High Rep and EUSR) were formally separated when the European Union (EU) took over the more prominent role of “navigating” the country on its way towards EU accession. Subsequently, the EUSR powers and authorities, following a **decision of the Council of the European Union**, were joined together with the Head of the European Union Delegation Office.

Once the separation of the offices took place, the position of the High Rep seems to have lost its superhero status. The Head of the EU Delegation, now double-hatted (EUSR and the Head of the EU Delegation), has taken a more prominent role with some of the superhero powers. The everchanging conditionalities for BiH’s accession to the EU, along with the funding that comes with it, have turned the EU into a political and economic power holder.

Subsequently the OHR was pushed to the background and “demoted” to a supporting role. The closure of OHR was discussed, as early as 2008 when the **PIC adopted a set of criteria** to be met before its closure. However, even though the High Rep has not been doing much since 2008 (just **perpetually expressing that he is concerned**), the criteria for the closure of the office do not seem to have been met yet. The OHR remains in the country, even though **Russia has been pushing hard** for its office to close. **In an interview, the EUSR** announced that the new German High Rep will come with “the whole arsenal of powers”. Maybe this time the “arsenal” will be equivalent to the powers of a whole Avengers team.

The decrease in influence of OHR did not mean reduction of certain countries’ involvement. The UK, Germany, US, Turkey, and Russia exercise continuous influence over BiH’s cultural, political, and economic spheres, along with a bunch of other countries and corporations that have represented various interest-zones for the ethno-nationalist elites. Six months after the new High Rep took office we see the Avengers team of those countries deployed to BiH, but acting more and more detached from the High Rep.

4.3. Neocolonial imposition of laws and reforms

The implementation of the DPA was conducted as if the war and subsequent peace agreement represented ground zero for BiH. The politics of forgetting (also discussed in our [previous essay](#)) were immediately deployed under the pretense of reforms and transitioning of the society from war to peace. However, what was also very much at play were the **intentions to hide** the political and economic transition from socialism to capitalism, in order to open a new market for the global

capital. As noted by social anthropologist and ethnographer **Stef Jansen**, the DPA set conditions for a much broader political and economic agenda: the introduction of a capitalist economic model that was “embedded in a wider depoliticised discourse of ‘reforms,’” where “the need for ‘reforms’ was not up for discussion.” Using the excuse of educating the uneducated, the politics of historical revision and erasure of socialist history and systems were deployed.

Using the excuse of implementation of the peace agreement, the IC used its powers to transform the previous system. Considering the socialist legacy of BiH’s economic and political system grounded in the idea of self-management, the transition to capitalism was necessary for the neocolonial endeavour to succeed. Already the DPA provided a framework for the consolidation of the transition to capitalism. In order for the neocolonial machinery to be able to exploit resources and people, much of the socialist political economy had to be removed. An example is the fact that the socialist concept of social ownership had to be entirely transformed in order to enable the process of privatisation of public property and natural resources (see [essay 6](#)).

4.3.1. Mirror, mirror on the wall, who’s the most (in)competent reformer of them all

There were many, many interventions into our political, economic, and social systems. A lot of these were not interventions designed for the needs of the BiH post-war society. Rather the interventions were a mirror-reflections of the systems the international “experts” brought with them from their home countries. So for example, **the reform of the public broadcasting system** was led by the British media expert John Shearer, a former BBC employee. Replicating the neoliberalisation of the BBC he insisted on profitability of the public broadcasting system. However, the public broadcasting system could never compete with commercial TV stations as the financial support for it to fulfill its public role remained absent, and has constantly been on the verge of bankruptcy. At the same time, the reforms he led mirrored the territorial divisions from the DPA and created three public broadcasting organisations (state level, and two entity level broadcasting systems). Thus BiH ended up with three public broadcasting stations being used as propaganda machines of the ethno-nationalist elites.

Furthermore, the reforms of the justice system that were introduced as part of the peacebuilding efforts changed our legal tradition. Some improvements of the justice system were necessary, in particular to enable effective dealing with the legacies of war and war atrocities. However, it was never made clear by the reformers why a perfectly functional legal tradition had to be replaced. Within the criminal law we went **from an inquisitorial to an adversarial** system when the High Rep, with **the support from the American Bar Association**, imposed new

criminal codes and new criminal procedure codes. A similar approach was used for the civil procedures, shifting away from the Continental Legal system towards a Common Law, but ending up with some form of a hybrid legal system.

The point is, with the changes in our legal system, the knowledge and experiences of many judges and prosecutors educated within the inquisitorial and continental system, for no particular reason, were rendered useless.

These reforms were not based on an argument that the previous system, which continues to be used around the world, was dysfunctional. The reforms were rather an outcome of the fact that the drafters of the new laws were Americans and the American legal tradition was closer to their hearts. Perhaps if a German or French legal team drafted the laws, or if the drafters, perish the thought, asked the BiH legal community what they considered to be the best option, we would have stayed within the inquisitorial legal system. The point is, with the changes in our legal system, the knowledge and experiences of many judges and prosecutors educated within the inquisitorial and continental system, for no particular reason, were rendered useless.

However, the reforms did not stop with interventions being based on systems imported from elsewhere. The reformers competed in making as many different interventions they could think of and experiment with. Some of these were totally new inventions of the IC. The OSCE, for example, took the lead on reforming parts of the educational system in an attempt to facilitate return. The curricula taught in schools in some parts of the country reflected ethno-nationalist narratives created by the war, which were hateful of the returnee groups. Together with other parts of the IC, the OSCE helped shape the so-called *Interim Agreement on Accommodation of the Rights and Needs of Returnee Children* (the Agreement), creating what has become known as “two schools under one roof” — otherwise known as apartheid. The phrase “two schools under one roof” refers to a system in which children in a single school have been physically separated by ethnicity, and kept from interacting with each other. Children have been learning from different curriculums. Subjects such as language, history, religion, and geography have been given the status of the so-called national group of subjects, basically providing a platform for the ethno-nationalist elite to continue infusing the educational system with nationalism and exclusion — and thus, creating new generations that would prove the thesis of Balkanism. In turn, the anticipated hatred among the tribes will provide the IC with the excuse to remain in BiH forever. The Agreement was signed in 2002 and is still applied. We were not able

to find the text of the Agreement online. It seems the Agreement is no longer available for the public, but some **traces of it remain**.

As it has turned out, nothing about this interim Agreement was interim. The Agreement gave the ethno-nationalist elites everything they dreamt of, but would not dare to realise on their own: an exclusive access to children to brainwash. It was handed to them on a golden platter. Although this Agreement was not a sole invention of the OSCE, the OSCE had a prominent role in creating this apartheid system. Subsequently, the OSCE has been trying to whitewash its shameful role in the creation of this apartheid system, which they now call “**discrimination**”. An **award was given to children** from the municipality of Jajce who stood up against the division of their school. This means that OSCE gave an award for actions protesting against the very politics OSCE helped establish!

This is a context which makes for almost a classical colonial rule: a corrupted local elite enabled by international governance, both benefiting economically and politically from the exploitation of people and extraction of local resources.

The interventions into our systems did not necessarily always have to do with direct economic benefits for the colonisers. Some of the interventions were more along the lines of power games through which the politics of forgetting and depoliticisation of the society would be deployed. Both of those methods, whether used jointly or separately, had the same goal: to prevent critical analysis and sovereign decision-making of the people living in BiH regarding the presence of the IC in the country. This is a context which makes for almost a classical colonial rule: a corrupted local elite enabled by international governance, both benefiting economically and politically from the exploitation of people and extraction of local resources.

4.3.2. There is no such thing as ideologically neutral reforms or unconditional support

The reforms introduced within the framework of international peacebuilding endeavour were never ideologically neutral. The reforms of the police, judiciary, criminal law, civil law, army, education, media restructuring, human rights mechanisms, etc. were all infused with the ideas of neoliberal peace. Moreover, a whole range of other reforms, deeply embedded in the ideology of capitalism and functioning of a capitalist political economy, were also implemented: privatisation, taxation, banking system, business-related laws, and so forth.

One of the biggest reform packages containing changes to several laws was appropriately named “**Bulldozer reforms**”—its name intentionally or unintentionally demonstrating the sovereign force behind them. The **OHR claimed** that this was not an internationally driven initiative and that the OHR, the International Monetary Fund, the World Bank, the US Agency for International Development (USAID), and the European Commission are only part of it to make sure that reforms were in line with “international norms and standards” (i.e. capitalism!) and that the reforms were driven by the “local business people”. The aim of the reforms was to deregulate the market and build a “flexible modern economy” open for foreign investments and global capital. In case it was not clear why this was good for the BiH society, an appropriate brochure was printed called **Privatization: what it is, how it works, and why should I care.**

With the reforms came both money and sovereign debt. The money that arrived came as either grants, loans, investments, or in-kind donations in the form of experts, equipment, technology, materials, and much, much more. Almost all of it was conditioned. Some was conditioned with implementation of other reforms pushing BiH further into neoliberalism; some was conditioned with spending the aid money on purchasing expertise, equipment, or technological solutions from the country providing the aid; some of it was conditioned with privatisation of BiH’s public companies and access to natural resources and markets for global capital and private exploitation. An inexhaustible source of conditionalities seemed to be at disposal for the IC.

Benefiting from the politics of forgetting, **as if their policies did not have a part in the dissolution** of the Socialist Federative Republic of Yugoslavia (SFRY) that ended up in wars, international financial institutions (IFIs) became an important ingredient in this peacebuilding soup. IFIs, in particular the International Monetary Fund, the World Bank, and the European Bank for Reconstruction and Development (EBRD), have played a key role in influencing and shaping BiH’s political economy. More than anything else, the role of the IFIs was to restructure the economic system so that BiH could leave behind the dark ages of socialism and enter into the light of capitalism. **A paper prepared by the World Bank, EBRD, and European Commission** from 1996, ahead of a donor meeting, laid out a vision for BiH’s post-war recovery. It stressed the need to undertake “market-economy reforms to fundamentally modify its [Bosnia and Herzegovina’s] legal, regulatory, private sector and financial frameworks;” it further identified the international private sector as an important source of resources; and recognised sustainable [economic] policies as “critical to achieving high economic growth, and eventually, creditworthiness.”

The grants and loans meant more money for the corrupt ethno-nationalist elites to appropriate. Not much thought was given to how the loans would be repaid — ordinary people and their tax money, or natural resources were available. What was certain was that the loans would be repaid with interest to the international creditors.

Although many of the economic reforms were implemented as part of the peacebuilding, their effects were not measured in terms of their contribution to peacebuilding.

This neocolonial and neoliberal approach was of course not much different from the IFI's **general approach in post-war societies** at the time—peace was to be facilitated by the private-sector and the market, and supposed prosperity those bring. Although many of the economic reforms were implemented as part of the peacebuilding, their effects were not measured in terms of their contribution to peacebuilding. The benchmarks of success were rather how well the reforms supported the key elements of neoliberalism—strong private property rights, free market, and free trade. This in turn, it was believed, would attract foreign investments and ensure a stable inflow of foreign currency, ultimately protecting the interests of the IFIs—namely repayment of debt. Protecting the interest of the people living in BiH was not on the agenda.

In this macro-economic scheme, there was no room for looking at how people's experiences of war shaped their economic realities in peace. There was no room for understanding what needs had to be addressed, as a matter of priority, in order for “ordinary” citizens to participate in and benefit from the announced “progress”. For Bosnian and Herzegovinians to be able to benefit from any economic recovery coming their way, investments in social infrastructure (public healthcare, education, child and elderly care, communications networks, etc.) and livelihoods had to be prioritised. Redistributive mechanisms had to be put in place to ensure that the progress would be equitably shared. Furthermore, a key predisposition for creating conditions for sustainable peace was an immediate addressing of war related violations and harms. Regrettably, all of this has been secondary to the investments in the free market.

This neoliberal understanding of what is “worth” investing in, and who participates in the economy (and how!), has been instrumental for the growing inequality gap between those with access to power and resources and the remaining 99% of the society that is left empty handed. In particular, the absence of reflections (and later adequate actions!) about the various ways women participate in the economy, as well as reflections on structural inequalities built into the political and economic system emerging as part of the peacebuilding approach in BiH, has had **disastrous effects on gender equality**. Women, as one of the most disregarded groups in the DPA, and their social, economic, and political realities have continued to be invisible throughout the various reforms rolled out.

4.3.3. The spoils of the free market

For the well preserved ethno-nationalist elites in BiH the transition to capitalism and the introduction of the free market also meant free access to the country's resources. In addition to natural resources, land, and public companies the spoil was the money that came in for reconstruction. After looting and pillaging during the war, the skills they acquired came in handy in peace. The ethno-nationalist elites, having sufficient and uninterrupted decision-making power and the access needed, happily threw themselves over these new fortunes and embezzled **billions of US dollars**. The IC, with its protectorate and monitoring powers, turned a blind eye to this embezzlement, as the products they intended to place were placed and the repayment of loans that they had given had been ensured.

The IC has been very flexible when it comes to ethno-nationalist elites' bad behaviour. Bad behaviour has been tolerated as long as it was beneficial for both of them and has not gone against the IC's central tenet—the introduction of capitalism, or more precisely, a neoliberal model of free market economy. The IC remained idle as long as international capital was not threatened. The most conspicuous example of this is how the International Monetary Fund has had no problems approving new credit lines, despite **the recognition** of state-capture, organised crime, and corruption at all levels of government.

4.3.4. A colonial reset button for gender equality

Gender equality was never officially part of any major reforms. During the initial phase of the post-war recovery and reconstruction there were no particular reforms dealing with women's rights or gender equality in general. The interventions were rather made through a combination of donor projects and neoliberal co-optation of feminist concepts. Whatever reformation of gender equality took place, it happened through cumulative effects of various non-governmental organisation (NGO)-run projects. However, the activities that were implemented through the NGOs, with the financial support from the IC, were usually designed and implemented without any reference to the previous achievements of women's equality struggles in the BiH context. The existing feminist knowledge and institutional memory was ignored and the IC supported only ideologically-neutral women's activism.

Donor-driven gender equality projects did very little to dismantle the patriarchal structures of oppression. Rather, they reified them and repackaged them. For example, claiming to be tackling violence against women, donors encouraged the formation of the women's NGOs that were utilized for service provision. This went hand-in-hand with the ongoing neoliberal interventions into the relationship between

the public and the private sector, where the service providing NGOs suddenly became the private actors to which the governments outsourced their obligations.

As with other reforms and interventions, the projects in gender equality were used to support the transition to capitalism. In fact, the projectised approach to gender equality was never about dismantling the patriarchy. Rather, the politics of forgetting were also applied in this area. What took place was **a total (ideological) reset of the space** within which the struggle for women's rights took place. Forgotten was the fact that equality provisions in the SFRY formally guaranteed women significant rights, including equal pay, the right to vote, equal property rights in marriage, and universal education. Compared to the pre-socialist period, these rights constituted considerable advances for women's liberation that were now completely disregarded. The donor-driven projects pretended that they were starting from scratch, and in the larger process of transforming the country's political and economic system actually managed to import or deepen some of the gender inequalities. Instead of advancing gender equality we have been facing setbacks that create ideal space for continuous project interventions.

4.4. Claiming the market: The emergence of international peace industry and peace entrepreneurs

The implementation of the DPA started almost immediately after the agreement was reached. What was very visible was that in addition to uniforms with blue helmets and journalists with cameras who were present during the war, other internationals started arriving. This time in suits and with briefcases, project proposals, and ideas that their organisation or country is the most important player on the ground. Some arrived with money, some with ideas, some with ambitions, some with compassion and out of solidarity, some looking for adventure, many with orientalist understandings of the unreasonable Balkan men and subservient and victimised women that needed to be "helped" in establishing "a new, democratic society".

The suits that arrived came as peace missionaries with ambitions to participate in the experiment of an internationally led, liberal, peacebuilding mission. They arrived in abundance, many without clear vision or knowledge of either peacebuilding or the BiH context. Fair enough, some had mandates arising out of the DPA, but many arrived just because the civilian aspect of the DPA was so broad and undetermined that everyone interested could find the reason to come to BiH. What some of them ended up doing was entirely up to their imagination and creativity; the space left wide open by the deployed politics of forgetting. There was no oversight or quality control, and trial and error-phases were plentiful. No matter the failures, as long the project was finalised according to its project document, it was considered successful.

4.4.1. A well-oiled international peace machinery

In addition to the international men with the big task of exercising political power and making decisions, many other internationals came either to support those men to exercise their power(s) or to do some other important, or not so important, jobs related to liberal peacebuilding. Not all of those internationals were men, of course. Many women came to support BiH women, first as providers of humanitarian aid and services, and later as mentors for building NGOs. They all scattered across BiH, bringing their ideas, understandings, and prejudices about peace, democracy, rule of law, equality, justice, and market economy. Of course, BiH was also an attractive destination for many, not just for those seeking the establishment and advancement of their careers in the international development and peacebuilding businesses, but also because of BiH's geographic position and relative safety. All those diligent upcoming diplomats, humanitarian workers, and future experts could go for long weekend breaks to swim or sun bath at the Adriatic coast, hike or ski at nearby mountains, or roam the streets of Rome, Florence, or any European city for that matter.

True, as with anything else, there have been exceptions to the rule. Among the internationals were people who were dedicated peacemakers who tirelessly tried to use their knowledge, experiences, and positions to bring about and influence the changes that could help to achieve peace. Some of them even tried to oppose the neocolonial approach of the international community, to question neoliberal dogmas, and to challenge political identitarian and economic capitalist solutions. However, most of them, if not all, were very quickly removed from the well-oiled machinery that the international peacebuilding community was becoming. Needless to say, what we are addressing in this essay are the trends and the approaches, not the individuals.

4.4.2. All expertise and no accountability

A lot of these ambitious people (and also the less ones) ended up drafting our laws and imagining our institutions and systems. Those jobs, given the actual level of expertise and competency required, were highly paid. But the high pay did not necessarily correspond to the qualifications of the individuals. Many were, in fact, without any adequate professional experience.

Nonetheless, they were considered experts. Even if they did not have any knowledge of the BiH context or the area in which they worked. For example, one could find an environmental lawyer leading a project on transitional justice, or a recent university graduate managing a complex demining project. They penetrated every segment of BiH society. They managed reconstruction of houses, elections, micro-credit programmes, assisted trauma victims, designed

national symbols such as the flag, reformed the institutions, provided training in gender mainstreaming, worked on war crimes, researched the society, and told us all about it later. They were also non-violent communicators, musicians, and performers; they ran peace camps, provided humanitarian aid, and helped start local NGOs.

These drafters, proposers, and managers enjoyed a special status in society, even if they caused damage (which many of them did). They were untouchable, and enjoyed high levels of immunity. Their mistakes, or the malfunctioning of the systems they put in place, were usually blamed on the locals and their lack of capacity to adapt to it. They remained above the BiH system and state. As **Kimberly Coles** explains “internationals do not partake or minimally partake in the services provided by public and private Bosnian institutions (such as identification services, banking, healthcare and hospitals, transportation), and they were not always subject to Bosnian state regulations (such as border controls, taxes, traffic laws). On the other hand, international organisations often provide replacement services to their international employees, either individually or in consortium.” Thus, a whole new class, systems, and industry emerged around the internationals.

Consequently the implementation of the peace agreement turned into a full-fledged peacebuilding industry with ambitious people working on their CVs.

The market for peace entrepreneurship was created and open. All those energetic internationals could not miss such an opportunity. And if they could not find their spot in an already existing organisation there was nothing to prevent them from establishing a new, usually international, NGO, and to find a mandate for themselves. Consequently the implementation of the peace agreement turned into a full-fledged peacebuilding industry with ambitious people working on their CVs.

4.4.3. A joint venture

In support of this growing industry, people from BiH were given mostly technical and administrative roles. They became interpreters, financial and project assistants, secretaries, and eventually also project and mid-level managers. The advancement of their careers depended on them perfecting the project management lingua and keeping away from any criticism. They had to stay in line with the set politics, even if those politics were damaging for peace and ultimately for the people of BiH. Some of the BiH employees have remained in an international organisation for a very long time, albeit with much lower salaries and with different contracts than the internationals. Others have ventured into

establishing their own NGOs. Replicating the logic of obedient BiH employees in international organisations, these newly established NGOs could count on international donors as long as they remained in line and refrained from criticising the neocolonial politics of IC.

Finally, the peace industry could not reach its full potential without being a joint enterprise of internationals and ethno-nationalist elites.

Finally, the peace industry could not reach its full potential without being a joint enterprise of internationals and ethno-nationalist elites. They jointly partake in finding excuses to keep stirring conflict so that the manufacturing of peacebuilding interventions is always in demand. And as long as there are resources that attract the neocolonial (IC) and neofeudal (ethno-nationalist) elites, both of them neoliberal and capitalist, there will be reasons for commodification of the conflict(s) and consequently peacebuilding interventions.

4.5. Instead of conclusions: With freedom come shackles

We could list numerous ideas and solutions the IC and ethno-nationalists have been creating, forcing us to navigate around them in our everyday lives. However, we would need a thousand more pages to cover them all.

Unfortunately for us who live in BiH, the imposed peacebuilding approach has created a hybrid neocolonial and neofeudal society. The colonial (the IC) powers have been extracting from us what they needed: cheap labour, natural resources, and profit. Parallel to this, the ethno-nationalist elites have continued their feudal rule in territories under their control, often seemingly obstructing and opposing the aforementioned reforms and restructuring. However, this opposition was never ideological. The ethno-nationalist elites were never against the transition to capitalism and the neoliberal politics of the free market, as they saw that they could retain and fortify their power positions within such a system. Rather the ethno-nationalist elites disagreed (if that even was the case) with the IC and among themselves how power positions were to be divided, or how the access to common good and natural and public resources were to be distributed.

The ethno-nationalist elites were never against the transition to capitalism and the neoliberal politics of the free market, as they saw that they could retain and fortify their power positions within such a system.

What is clear is that the combination of mandates awarded in the DPA and the mandates of international organisations, international NGOs, donors, and private consultancy companies, imagined and reimagined our society. Most of the time it has been peacebuilding without building the peace. The massive number of laws and reforms raining down on us also meant that the people of BiH, including many professionals, were not able to navigate around all of them. They found themselves silently accepting them and doing their best to catch up with this new, modern yet traditional society emerging in front of their eyes.

What changed, sometimes many times over, was the shape of the space, the format, within which they applied, exercised and abused their powers.

The reforms undertaken, however, never touched the structures of power created by the DPA. The sovereign reign of the ethno-nationalist elites was never threatened by the reforms, nor was the context created in which the meddling of the IC would become obsolete. What changed, sometimes many times over, was the shape of the space, the format, within which they applied, exercised and abused their powers. For example, the many reforms of the justice system have not produced any results. In fact, it has taken less than ten years for the ethno-nationalist political elite to infiltrate, populate, and corrupt this new system with their cronies who follow and support their ethno-kleptocratic politics. The system in which everyone and no one has the right to write and impose laws, and to initiate and implement reforms, has created ample space for corruption that has become the modus operandi of all elites, from ethno-nationalists, internationals, to corporations. What we have seen in these past 25 years is that the neocolonial attempts of the IC to civilise and europeanise “the barbarians” have resulted in strengthening of the narratives that contribute to excuses of the IC and ethno-nationalist elites to remain in power, and for new power actors to emerge.

The case of BiH and the way the DPA was negotiated and implemented show the dangers and long term implications of sidelining the UN as a peace facilitator. This not only weakened peacebuilding but also the UN itself. After its failed peacekeeping operation in BiH during the war, the UN was excluded from direct involvement in negotiation of the DPA. Consequently, the DPA became a new social contract that was not anchored in the UN system, but was reached among specific countries that had some geopolitical interest in BiH. True, in order to function as an international document some elements were ostensibly recognised and confirmed by the UN through various resolutions and discussions at the level of the General Assembly and/or Security Council. However, from the perspective of us living here the involvement of the UN is merely for show—an occasional theatre.

Forgotten is the idea of international solidarity that should be at the core of the UN mandate for building sustainable and just peace.

As for the UN in the country, it was marginalised in the DPA and it has remained marginalised to date. The UN mission was established immediately after the war, but as it was the case with peace keeping operations, it was made ineffective. As feminist activists, we remember the mission mostly by the arrogance of the head of the mission, Jaques Paul Klein, and his role in **the UN cover-up** of the sex-trafficking scandal in BiH. The UN mission's mandate expired in December 2002. Today, the UN is present in the country through the **United Nations Country Team**, which, while having plenty of staff, is reduced to a mere recipient of donor funding, often in competition with BiH NGOs. The so-called successes of these projects are only made known if we read their PR material—the field often tells a different story. Forgotten is the idea of international solidarity that should be at the core of the UN mandate for building sustainable and just peace. The sidelining of the UN in the DPA along with the neoliberalisation of the UN itself, transformed the idea of international solidarity into just another neoliberal exercise in geopolitics.

The implementation of the DPA, and in particular the usage of Bonn powers, has been dependent on the continuous agreement between the states that have had particular geopolitical interests, as we have seen over the time through the meetings of the PIC. While there was a common interest of all involved, the High Rep had unlimited powers to intervene in political and economic processes in BiH, under the excuse of peace implementation. However, when the global geopolitical dynamics changed, the dynamics in BiH also changed, along with alliances and the balance of power struck between the different PIC countries. For example, over time, some parts of the IC have clustered around economic reforms, financial aid, credits, and the conditionalities attached to them. The European Union, the European Bank for Reconstruction and Development, the International Monetary Fund, and the World Bank, along with some individual countries (most prominently US, Germany, and UK) most often act in unison.

Other parts of the IC, for example Russia or Turkey, have their own agendas and often act unilaterally. Increased tensions between Russia and NATO in the 2010s reflect also the dynamics within the PIC and the use of Bonn powers. Russia started more and more to use the division between three ethnic groups as part of its play towards NATO. This new game demanded new alliances with some of the ethno-nationalist elites, resulting in Russia actively obstructing PIC decisions. Until recently, an uninterested and neutral China has started economically to engage in the region, abandoning its neutral position towards the peacebuilding process in BiH. This has brought its struggle for economic hegemony with the US to BiH's doorsteps.

The peacebuilding established in such a way turned out to be just another power struggle between the global players instead of meeting the needs of people living in BiH trying to recover from the war.

After 25 years of entrenched ethno-nationalist autocracy and international (colonial) guardianship, we have grown accustomed to seeing new geopolitical actors emerging every now and then, in particular as the global dynamics are fast-changing. The steady and continuous weakening of the state has enabled each ethno-nationalist elite to play its own game, and the IC to cash in (politically and economically) on the void left by an absent state: Chinese with their dirty energy, Russians with their military power-games against NATO, Turks with their neo-ottoman aspirations, the EU with its border security. And still there is plenty to do and cash in on even for the ethno-nationalist elites.

The frightening thing is that 25 years after the start of the implementation of the DPA the majority of Bosnians and Herzegovinians, are convinced that they cannot live without any of the international custodians, ethno-nationalist autocrats, and foreign investors. It is difficult to imagine anything outside of neoliberalism, neocolonialism, and neofeudalism. It is like our lives are no longer ours—unless those lives are theirs. We are free to live our lives anyway we want to as long as we keep the borders militarised and closed so unwanted migrants do not reach the EU; we are free to build our infrastructure as long as it is within the EU Connectivity Agenda; we are free to reform our labour laws as long as we make them “flexible”; we are free to vote as long as we at the end vote for the “right” candidate who is member of ethno-nationalist elites and is willing to dine and wine with the IC; we are free to enjoy human rights as long as they are individual and are within the realm of political and civil rights; we are free to deal with the past as long as we don’t question the involvement of the international community; we are free to participate in the political dialogues as long as it is within the framework of the EU set agenda.

The Regional Geopolitics of Dealing with the Past

The Dayton Peace Agreement (DPA) was signed by representatives of the Republic of Bosnia and Herzegovina (BiH), the Republic of Croatia, and the Federal Republic of Yugoslavia (FRY). At the time, FRY consisted of two republics: Montenegro and Serbia. In 2006 Montenegro declared independence from its union with Serbia and today Serbia and Montenegro are two separate states and there is no FRY anymore. The Republic of Serbia has claimed to be the successor of the FRY signature at the DPA.

The fact that the DPA was signed between BiH, Croatia, and FRY indicates that the negotiators understood war as a regional affair, acknowledging that peace could not be achieved without the neighbouring countries agreeing to it. However, the DPA stopped short of recognising the role and direct involvement of the neighbouring countries in the war, despite the evidence of their active and direct participation. This framing was supported by the international community's insistence on viewing the war as exclusively internal, ethnic war.

Consequently, not all the parties responsible for the war acknowledged at least some degree of responsibility for, and obligation to address the harms they caused. Instead, the burden of dealing with the consequences of the war fell only on the state of BiH. Indisputably, throughout the DPA the international community took on itself to supposedly help BiH by contributing to rebuilding the country and peace, but only as a goodwill gesture (which, as we showed in [essay 4](#), has from the start been colonial in nature and primarily driven by international financial institutions).

It is highly problematic that the neighbouring countries were relieved from their responsibility for the war. Instead, the role awarded to them by the DPA was to establish “progressive measures for regional stability and arms control” and to devise “new forms of cooperation in the field of security [...] and the need to avoid an arms race in the region” (**Annex 1-B**). Our neighbours have used this role in abundance to meddle in the internal affairs of BiH, stirring up conflicts when they need to shift the focus of the opposition within their own countries, while at the same time supporting the ethno-nationalist elites in BiH in their feudal endeavours (see [essay 3](#)).

There are numerous consequences of not including an acknowledgment of responsibility of the neighboring countries for the war and war crimes, many of which are still in operation today.

In this essay we are going to tackle four consequences: the exoneration of Serbia and Croatia from the obligation for reparations and dealing with the past; political interference of Serbia and Croatia in internal matters of BiH; regional support to war criminals; and introduction of the erroneous concept of “regional reconciliation”. While recognising **Montenegro’s responsibility** for war and reparations (its subsequent split from Serbia did not exonerate Montenegro from its active involvement in war in BiH as it was part of Federative Yugoslavia during war) this essay focuses on Serbia and Croatia, since those are the two neighbouring countries that continue to intensely meddle in internal affairs of BiH.

5.1. Exoneration from the obligation for reparations and dealing with the past

The absence of the responsibility clause for the neighbouring countries in the DPA, and consequent lack of obligations to redress the harms caused by them, has put the entire burden of dealing with the past on the already weak institutions of BiH. True, the state of BiH had at its disposal the international legal mechanism, which it could approach to secure reparations from the neighbouring countries, namely the International Court of Justice (ICJ). However, the DPA’s recognition of the neighbouring countries as important enough to sign the DPA enabled those countries to obstruct and interfere with BiH’s justice claims before international mechanisms and in such a way to deal with some aspects of the past. So even though there was an independent arbiter (the ICJ) to determine the level of responsibility of the neighbouring countries for the war and their consequent obligation to repair BiH, BiH was prevented from independently formulating the claims before this arbiter, because the neighbouring countries were allowed to meddle.

The internal and regional political struggles surrounding submissions of applications to the ICJ only deepened the dysfunctionality of the state institutions. The Bosnian Serb and Bosnian Croat ethno-nationalist elites in power, who keep constructing the identity of their groups as having closer connection to their “fatherlands” of Croatia and Serbia than to BiH, were not willing to file the claims against those “fatherlands”. This was of course done with the blessings of, and cheering from, Serbia and Croatia.

The principle of decision-making through consensus played a role in the prevention of submitting the application to the ICJ. The Presidency of BiH holds the constitutional mandate on international relations, thus the three members of the Presidency of BiH needed to agree about the submission. Given that the Serb and Croat members of the Presidency were more inclined to listen and protect their respective “fatherlands” than to assist the state of BiH in its attempt to secure reparations through the international mechanism, it was easy for them to obstruct the submission. This made it hard for the state to file any claims against the neighbouring Serbia or Croatia for aggression. Only the claim in relation to Serbia’s responsibility for genocide in Srebrenica saw some judicial debate. In the end even the submission for genocide ended up being reduced to submission made by the Bosniak and Bosnian Croat ethno-nationalist elites instead of the state.

In **2007, the ICJ** confirmed that genocide in Srebrenica was committed, but determined that there was not enough evidence to find Serbia directly responsible or complicit in that genocide. However, the ICJ also found that Serbia acted in violation of the Genocide Convention by failing to prevent the genocide and by failing to punish those responsible. The attempts to file a revision, once the previously unavailable evidence became available, **failed**. Institutional decisions related to filing a revision to the ICJ were actively opposed by the Serb ethno-nationalist elite as well as politicians from Serbia. This resulted in the revision complaint being driven only by the Bosniak ethno-nationalist elite. As a result, the **request for revision was rejected as inadmissible** because the ICJ concluded that the person who claimed to be the agent authorised to represent BiH had not in fact been **appointed by the state**.

The issue around appointment of the agent stemmed from the ethno-nationalist elites’ power struggles, in which all self-proclaimed representatives of the ethnic groups insisted that the application for revision was a matter for a specific ethnic group (i.e. Bosniaks) and not the state. Ethno-nationalist elites’ allegiances towards their “fatherlands” contributed to the controversy about the agent, as did the continuous attempts to obstruct the functioning of state institutions.

5.1.1. Manipulating war crime trials

The neighbouring countries have also been actively working to exonerate themselves from dealing with the past by refusing to **undertake responsibility for prosecuting war crimes** in their own states or to **commit to other transitional justice processes**, such as **vetting or lustration**. From the beginning of war crime prosecutions in the region, both Croatia and Serbia took the position that the only acceptable prosecutions were those the elites of those countries perceived as beneficial for their cause—this cause being nation building. Thus,

their primary acceptance of responsibility for war crime prosecutions contained what **Ivo Josipović**, a professor of criminal procedure and a former president of Croatia, called “double standards for responsibility—‘ours’ and ‘theirs’—when even the gravest crimes committed against enemies were not punished, whereas the criminal prosecution of representatives of hostile military formations was in many cases conducted without legal grounds, in a discriminatory manner and without any respect for the right to fair trial.”

When it came to prosecutions before the International Criminal Tribunal for the Former Yugoslavia (ICTY), both Serbia and Croatia have actively obstructed such prosecutions, especially of those individuals whose trials could implicate direct involvement of those states’ structures in the war crimes. Those obstructions played out through e.g. **refusal to extradite** or exchange evidence, which created delays and made prosecutions even more difficult. Both **Serbia** and **Croatia** used their obligation to cooperate with the ICTY to provide documentation against their “enemies” and not in support of the process of dealing with the past. There have been two exceptions, however. The first was Serbia’s handing over of documents to ICTY regarding Srebrenica, for the ICTY case against Slobodan Milošević, but with the request that they **remain concealed**. The most sensitive parts could thus not be disclosed to the ICJ or to the public, which impeded BiH’s case against Serbia at ICJ. The other exception was Croatia’s handing over documentation as part of **meeting conditions for EU accession**.

Serbia’s and Croatia’s use of the war crimes prosecutions to position themselves as victims and ignore their active participation in war crimes in BiH has continued throughout the ICTY completion strategy and subsequent national prosecutions. When not prosecuting the enemy, both **Serbia** and **Croatia** have done all to ensure that the prosecutions of “their” war criminals fail. The random prosecutions that occur are more of a symbolic undertaking to please the international and EU bureaucrats who from time to time (and within their political interests) demand an end to impunity for war crimes, rather than an actual commitment to publicly engage in the process of dealing with the past. The prosecutions of Croatian citizens in Croatia and Serbian citizens in Serbia for war crimes they committed in BiH, when they on rare occasions take place, are usually hidden from the public, and are only promoted to visibility if the accused are found not guilty or the case was dismissed due to procedural reasons.

Bottom line, all of these obstructions and delays are part of a strategy to relativise and delegitimise the process of dealing with the past, in BiH and regionally, as those would implicate Serbia and Croatia in both participation in the war and commission of war crimes in BiH. The poor track record of Serbia’s and Croatia’s prosecutions is an effective method in the strategy to negate their role in the war in BiH, with a serious impact on **regional accountability**.

5.2. Neighbourly political interference in BiH internal affairs

The second consequence of the non-inclusion of the responsibility of Croatia and Serbia for their involvement in the war in BiH is visible in their continuation of war politics of interference. Only now the neighbouring countries do not use militarised violence to interfere with the internal political, economic, and cultural affairs and power dynamics in BiH, apart from the recent race in the armament.

The neighbouring countries have used the fact that they are signatories of the DPA to present themselves as guardians of the DPA and of the ethnic group they claim as theirs.

The current interferences are both direct and indirect. The neighbouring countries have used the fact that they are signatories of the DPA to present themselves as guardians of the DPA and of the ethnic group they claim as theirs. This continued interference into BiH affairs is in a way also a continuation of the aggression and expansionist politics towards BiH, as both Croatia and Serbia maintain their nationalist projects of Greater Serbia and Croatia, projects that ultimately aim to claim parts of the BiH territory. Continuing the practice of nationalist territorial claims revitalised during the war, Serbia presents itself as if safeguarding the interests of the Bosnian Serbs and Republika Srpska. In the same way, Croatia presents itself as guarding the interests of the Bosnian Croats and the cantons for which the Croat ethno-nationalist elite claims to be entitled to control. Through such presentations they both interfere in political dynamics in BiH and make sure to establish their control over certain parts of BiH. At this point the territorial claims are more subtle: financing establishment of institutions such as hospitals, cultural centres, and universities in certain part of the territories, giving citizenships and seats in parliaments in their countries to respective ethno-nationalist elites from BiH, but also through using their special relationships with the BiH ethno-nationalist elites to exploit the rivers for electricity.

Any internal social, political, or economic dynamic, tension, or power struggle in BiH immediately sees involvement of the leaders of Serbia and Croatia, who promote their visions for how BiH is to deal with its problems.

Their involvement is usually done in collaboration with the ethno-nationalist elites from BiH. Moreover, they have been imposing themselves as an authority to interpret who is the “**legitimate**” representative of a certain ethnic group, ignoring the fact that this is not an existing political concept in the Constitution, and dismissing (as if they are entitled to do so!) the results of elections in BiH. The concept of “legitimacy” has been put in circulation by ethno-nationalist elites in BiH when they started losing power positions through elections. It has been derived from the claim that only one ethno-nationalist political party can represent the respective ethnic group, and only a member of the designated political party is seen as a “rightful” representative of that group.

Furthermore, the assumed role as guardians of both the ethnic groups and the DPA has allowed the political elite of the neighbouring countries to use BiH as a tool for managing opposition within their own countries. By stirring conflicts in BiH they divert attention from themselves. All these interventions actually contribute to deepening the conflict(s), both within BiH and the region, rather than creating conditions for peacebuilding.

5.3. Regional support to war criminals

The absence of a responsibility clause in the DPA has encouraged both Serbia and Croatia to **harbor war criminals** and to provide them with financial assistance, including for their defence in war crime trials and support for their families during their imprisonment. There have also been situations when both Croatia and Serbia hailed as heroes top ranking military and political leaders sentenced for war crimes, **especially upon their return after serving their sentences**. This has been done within the framework of serving greater aims of the nationalist political elite in order to whitewash the role of Serbia and Croatia in the war in BiH.

The dominant—both international and regional—interpretation of the war in BiH as an internal, ethnic war (which the DPA entrenched), created a situation of “representationalism”. The ethno-nationalist elites have manipulatively claimed that the conviction of a person identifying with an ethnic group means that the entire group is being blamed for the crime. Given the imagined connection of ethnic groups with their “fatherlands” this claim then extends the blame to Croatia and Serbia. Following that line of thought, the logic is deployed that by defending the honourable role of the accused or convicted person, the honour of the ethnic group and its respective “fatherland” is also defended. The logic for that is simple: if there are no war criminals among the ethnic groups they claim as theirs, then there can be no stains on Serbia’s/Croatia’s involvement in the war. The same logic is applied to the citizens and members of the structures of the neighbouring countries accused and convicted for war crimes in BiH.

5.4. Reconciling the irreconcilable

Almost 25 years after the relieving of neighbouring countries from responsibility to redress the harms caused by their participation in the war, the region has been driven into an absurd situation. The European Union (EU)'s project of moulding the countries of the Balkans into acceptable, future EU members has led to an erroneous and decontextualised attempt of "regional reconciliation". This has been made one of the key aspects of the EU's accession politics towards countries of the former Socialist Federative Republic of Yugoslavia that are still waiting for EU membership (thus excluding Slovenia and Croatia).

In 2018, the European Commission (EC) adopted a **strategy for the Western Balkans**. Through six initiatives referred to as flagships, the EC framed its approach to the transformation process in the Western Balkans, targeting areas such as rule of law and governance. One of these flagships is an initiative to "support reconciliation and good neighbourly relations". While this approach provides some formal support to transitional justice and missing persons, the reconciliation is more seen as an initiative to establish "good neighbourly relations" through support to increased "cooperation in education, culture, youth, and sport". In the given context, the intended reconciliation is a farce. It focuses more on supporting different NGO initiatives than it aims at dealing with the past on a structural level, or addressing the responsibilities of the states arising from the war.

As a digression, it is worth briefly reflecting on how the concept of reconciliation first came to BiH. It was introduced soon after the signing of the DPA through various internationally-led transitional justice initiatives, most notably through an initiative of the United States Institute for Peace (USIP) in 1997. Within this initiative, the Draft Law on Truth and Reconciliation Commission was prepared but was met with heavy criticism from the victim associations and never got anywhere. This, along with other subsequent initiatives of USIP, failed due to being perceived as an "elitist" or "private" initiative, lacking in contextual understanding.

The concept of reconciliation was widely debated over the next few years within the many transitional justice initiatives driven both by international organisations and domestic NGOs. Victim associations rejected the concept because reconciliation was presented to them as a project, rather than a process. This projectised approach was not acceptable, as it was understood as a "kiss and make up" scenario. The victims and other peacebuilders and human rights defenders felt that it would mean that the perpetrators would be treated as equals to the victims (as if both were equally responsible for war and war crimes) and would have an equal say in the process. The perpetrators in this context were understood both as individuals and polities (e.g. neighbouring states but also internal entities created by the war). Victims continuously repeated that they were

not quarrelling with anyone so that there was no reason for them to be pushed to make up with anyone.

Victim associations rejected the concept because reconciliation was presented to them as a project, rather than a process.

Opposite to what was being forced upon them, the victims associations saw reconciliation as a process, and not an outcome. At some point, the concept of dealing with the past emerged as the most acceptable approach amongst the civil society groups focused on addressing the consequences of the war. Hence, reconciliation was severely downplayed in subsequent transitional justice initiatives—until the EU accession policies revamped it and brought in new/old local, regional, and international players willing to accept whatever EU grant money sets forth. Unlike the victims whose interest in justice was at the core of their engagements, the new/old players, even though not (un)aware of the previous discussions, are primarily driven by the access to donations, profit, and career-making incentives.

In addition to the very problematic approach to reconciliation, the EU accession policies intersect with the DPA's non-inclusion of Croatia's and Serbia's responsibilities for the war and the regional geopolitics of dealing with the past, particularly in BiH. Croatia is visibly missing from this new set of EU accession policies. Its membership in the EU removed Croatia from the cluster of the countries considered for the EU accession, while the remaining former Yugoslav countries (Serbia, Montenegro, Northern Macedonia, BiH, and Kosovo) were grouped together with Albania into a newly imagined geopolitical cluster, the so-called "Western Balkans". The "western" in the name symbolises the aspirations to include the wild Balkans into civilised Europe.

This new geographical determinant has carried with it political, economic, and social consequences for all the countries included in it. As an EU member, Croatia has suddenly been promoted from an object of EU accession conditionalities to a position of the "West" and influence. In its new position, Croatia was totally absolved from dealing with the past in relation to war in BiH. By becoming "the West," a country receives immunity for committed crimes and is absolved from responsibility for wars, as the "civilised West" is in its own eyes never an aggressor or perpetrator but always the peacemaker.

The consequences for BiH and its dealing with the past are grave, because it completely undermines comprehensive dealing with the past. However, this is, for sure, not something with which the EC bothered itself. BiH is expected to enter

into regional reconciliation programmes with Albania, but not with Croatia! That this makes no sense whatsoever is of no concern for the EC.

In fact, reconciliation for the EU is not an aim in itself. Instead, what can be read from the European Commission's Strategy for the Western Balkans is that the EU subjugates reconciliation to the creation of economic opportunities. As cultural theorist **Boris Buden** said, reflecting on the West's relationship with the Balkans:

The Other of the West [Balkans] becomes the West without leaving any traces of its particularity behind. It has simply melted down. The voice of the Balkans directly becomes the voice of the West, that is, its master's voice. This is why we cannot even call it submission, for submission would imply a sort of relation. There is no relation whatsoever here. Instead, it is a cloning: the future of the Balkans becomes a Western clone.

For the EU, reconciliation is a means to an end: a market economy that is not burdened by the past but liberated by profit.

For us in BiH, on the other hand, dealing with the past is not a matter of achievement but rather a result of cumulative efforts to address social, political, and economic consequences of the war. By privileging profit-making over dealing with the consequences of the war, the EU contributes to destabilisation of this region and undermines any ongoing processes of peace.

5.5. Instead of conclusions: Never-ending meddling

So, where are we more than 25 years after the “wise men” signed the DPA in terms of dynamics and relationships with our “good” neighbours? Not very far. By not having a peace agreement that assigned responsibilities and subsequent obligations, the space for BiH to deal with its past was impeded, leaving the country torn between internal tensions and aggressive meddling of the neighbouring countries. To make things more complicated, the EU pre-accession conditionalities imposed on BiH continue the politics of relieving Serbia and Croatia of their responsibility for the war in BiH, expecting BiH to magically deal with its past while ignoring the current context.

In this context, Croatia holds an asymmetrical power position in the region. As an EU member state, Croatia has certain decision-making powers and is part of influential platforms in relation to BiH. In the context of dealing with the past, and the fact that it never accepted any responsibility for the war in BiH, Croatia keeps using the European Parliament as a platform to legitimise and voice unrealistic

demands of the Bosnian Croat ethno-nationalists. Croatia's influence within the EU affects the EU accession conditionalities for BiH. Croatia is pushing for conditions relating to amendments to the BiH Constitution and to the Election law, in the direction of creation of a third entity: an ethnically defined territory that would be awarded to Bosnian Croat ethno-nationalists to rule over. This is a dream **Croat ethno-nationalists together with Croatian state officials** formulated during the war and never really gave up on. Croatia also supports and legitimises the narratives around only one party being a "legitimate" representative of the Bosnian Croats.

On the other hand, Serbia is also part of the EU accession process. Serbia is playing the game of the cooperative country when it comes to the EU conditionalities. However, this cooperativeness is reduced to making promises, then prolonging signing of the agreed documents until the last minute, and then making sure that the signed documents are only *pro forma* rather than implementable. In relation to dealing with the past, this is best seen with regards to agreements on cooperation for **prosecution of war crimes** and exchange of the information on missing persons (numerous agreements on cooperation were signed, the last one **in 2019**, after previous agreements failed in implementation). Furthermore, while flirting with the EU, Serbia is also making sure it stays allied with Russian geopolitical interests in the region, and BiH is always part of that geopolitical narrative in which, again, dealing with the past somehow takes an **important role**.

In such a dynamic, the last on the list of EU's interests is dealing with the past. Serbia's and Croatia's admittance of responsibility for the war in BiH is of secondary or no importance (no matter the EU's many formal statements claiming the contrary). To this we need to add that 25 years have already passed since the war and the ICTY has finished its mandate. Thus, the EU, when it includes reconciliation in its conditionalities for Serbia, accepts *pro forma* actions. It has been clear for a long time now that whatever Serbia has been doing has been a matter of "ticking the box". There is really nothing happening in relation to actually addressing the past in a way that is healing for BiH, or for the rest of the region. Again, BiH is left alone to deal with the consequences and with dysfunctional institutions, while at same time the pressure to move on and fix itself is threatening to break the country apart.

Who Needs Redress Anyway!

According to international law, states are obliged to ensure reparations to victims in cases of gross human rights violations and violations of international humanitarian law. The **right to reparations** includes restitution, compensation, satisfaction, and guarantees for non-repetition. The purpose of reparations is to address the harms caused by violations and ensure satisfaction for harms suffered through publicly recognising victims as right-holders entitled to redress.

The Dayton Peace Agreement (DPA) was inexplicably weak in this regard, not explicitly recognising that all civilian victims of war are right-holders, entitled to redress. The DPA did, however, contain limited provisions for addressing some aspects of the war, primarily through provisions on the right to return and reclaim property (*restitution*). It also acknowledged the necessity for prosecuting war crimes and demanded cooperation from the DPA signatories with the International Criminal Tribunal for the former Yugoslavia (*satisfaction*). In this essay we only focus on the DPA provisions concerning restitution, while satisfaction will be dealt with in [essays 7 and 8](#).

The DPA contained extremely limited provisions for reparations in Annex VII. These have not only been partially implemented, as has been the case with many other DPA provisions, but they also pushed the victims to search for partial solutions. Victims were forced to look for solutions in other DPA annexes not specifically dealing with reparations, i.e. **Annex VI**, but also through interventions within the legal frameworks of the complex administrative units created by the DPA. In the end, all the affected people looking to redress harms ended up dissatisfied. Typical to the DPA implementation story, the ethno-nationalist elites gained where everyone else lost. Of course, the international community used the space to tirelessly (even today after 25+ years since the DPA) create transitional justice projects, an important part of the forever expanding peace industry.

This essay focuses on the segments of the right to reparations that either were contained in the DPA or came because of pressure put forth by some of the victim collectives. In the first part of this essay, we analyse the limited provisions

for reparations contained in the DPA. In the second part of the essay we look at the DPA's failure to recognise comprehensive reparations and its impact on the BiH society.

6.1. Annex VII: The right to return and the right to property

During the war in BiH, 2.2 million people became refugees and internally displaced persons – about half of BiH pre-war population. The one segment of the right to reparations that could not be ignored by the negotiators and was thus given attention in the DPA was restitution. This was dealt with in **Annex VII of the DPA**, which stated that “the early return of refugees and displaced persons is an important objective of the settlement of the conflict in Bosnia and Herzegovina.” The annex is focused on creating an environment for repatriation of the many refugees and displaced persons, mostly through protecting their right to have their property returned, and their right to safe and voluntary return to their pre-war place of residency. The annex contains among other things provisions on: short-term repatriation assistance to returning refugees and displaced persons in need; repelling of any discriminatory laws or administrative practices; and amnesty for returning persons charged with a crime other than a serious violation of international humanitarian law.

The annex also contains provisions for compensation for private property that could not be restored to its owner. To that end, the DPA established a special Commission for Displaced Persons and Refugees with a mandate to receive and decide on claims for restoration of property. The mandate also provided for the Commission to award the owner with a “just compensation” in case the Commission failed to secure the restoration of property to its rightful owner. Once formed in 1996, the Commission was renamed the **Commission for Real Property Claims of Displaced Persons and Refugees** (CRPC), carrying on its work until 2003 when its mandate expired.

The CRPC worked under difficult circumstances: political and other obstructions; changes of regulations; insecurity and frequent incidents and evictions; refusal of entity and municipal level authorities to implement its decisions; and other problems affecting the pace and dynamics of its work. To facilitate the CRPC's work and help overcome these obstacles, the Office of the High Representative (OHR), in coordination with the UN High Commissioner for Refugees (UNHCR), the Organisation for Security and Cooperation in Europe (OSCE), the UN Mission to BiH and CRPC, came up with the so-called Property Law Implementation Plan (PLIP). The **PLIP** was “a means of gathering the whole range of property-related activities of the different agencies into a coherent, goal-oriented strategy

for securing implementation of the new laws.” In practice this meant that the High Representative used the Bonn Powers to impose the CRPC’s decisions in both entities: the **Federation of BiH** and **Republika Srpska**.

By putting the focus on property restitution and reconstruction as a main promoter of return, the international community failed to understand the meaning of home and what it means to return home.

In addition, Annex VII provided for establishment of a Refugees and Displaced Persons Property Fund to be placed within the Central Bank of BiH, and be used by the CRPC for compensation of property that could not be restored. However, the Fund was never established, among other things because the **international community bypassed** the Annex VII provision on compensations, fearing that people would prefer money instead of their homes. As if the choice really was that simple. As social anthropologist and ethnographer Stef Jansen explained, the idea of ‘home’ goes beyond the physical place of residence. For displaced Bosnians and Herzegovinians, the understanding of home “**included a desire to end precariousness and to create a basis from where to (re)build a ‘normal life’**”. The places where they were supposed to return to, once their property was restored to them, was everything but “normal”. Removing compensation from peoples’ choices did nothing to secure sustainable return, because people ended up selling their houses anyways, as returned property was not the same as reclaimed homes. By putting the focus on property restitution and reconstruction as a main promoter of return, the international community failed to understand the meaning of home and what it means to return home. Sustainable return simply could not be achieved without that broader context of human security.

Once the destroyed houses were restored to their owners, they had to be reconstructed. Without a systematic approach to reconstruction, many different donors came and awarded donations based on their individual assessments, with no or very little coordination amongst them. The individualised approach meant that those who were resourceful could obtain several donations for reconstruction of their property, while others were left without any support. This lack of a system promoted corruption and furthered the inequality gap.

The formulation of “lawful owner” caused problems for women in particular.

In addition, the approach to the return of property conditioned by “ownership” lacked a gendered understanding of ownership dynamics in the country. The formulation of “lawful owner” caused problems for women in particular. Even

though the laws from the socialist era contained provisions on equal right to ownership of property (equal share of inheritance from parents amongst brothers and sisters, as well as equal share of the property obtained during marriage), the patriarchal tradition conditioned the ownership practices in reality. The property was more frequently registered to the male members of the family. This patriarchal dynamic was more present in some areas of the country than in others. Consequently, many women whose husbands were considered missing faced obstacles in the process of returning their property. Due to bureaucratic procedures, women could not go through the process of inheritance, as their husbands were not proclaimed dead if their remains were not found. Since the property was not in their names, the women could not return to their property as they could not prove they were the lawful owners. These problems were recognised and attempted to be resolved by the **Law on Missing Persons** that was adopted in 2004. However, its provisions related to proclaiming a missing person dead took several years to implement, which further prolonged the lack of women's access to their property.

LGBTIQ partnership was not recognised in the law and any potential issues in relation to the conditions for return of property have remained unrecognised. What's more, homosexuality was criminalised until new criminal codes in the Federation of BiH and Republika Srpska were adopted in 1998 and 2000 respectively. Consequently, LGBTIQ partnerships were entirely invisible, even taboo, so there was no space to even start demanding recognition and resolution of any potential property claims they might have had after the war.

The "lawful owner" clause created even more **problems for the Roma community**. Many did not own the property they lived in, which was often substandard housing. This also meant that they could not access reconstruction assistance provided by the international community as many of the projects were explicitly for the so-called constituent people that were considered minorities in the returning area.

6.1.1. The *realpolitik* of the right to return

The right to return (to a devastated, poor, dysfunctional country, run by the same ideology that pushed it into war) was not just enshrined in the DPA because of the **international community's belief that the return played an essential role in peacebuilding, reconciliation and "reversing" the ethnic cleansing**. During the drafting of the DPA, there were active pushes to include the provisions of the return in the DPA. The commitment to facilitate the return was, among other things, driven by internal politics of the countries that received BiH refugees to get rid of this "burden."

Of course, many people did not want to return due to their very personal and differentiated experiences of war and displacement.

Despite the internal demands from the host countries, and the DPA commitment to the return process, the return did not materialise in the expected form or volume. On the one hand there were wishes, whether personally or politically motivated. On the other hand there was reality. In real life, many people had already attained permanent residency or citizenship in other countries; other people had started families, had children, formed new lives; some had enrolled in universities or found jobs; some did not want to trade the relative safety for precarious conditions in their war-devastated country. Of course, many people did not want to return due to their very personal and differentiated experiences of war and displacement.

And of course, it turned out that the political motivations of the host countries were often populist, driven by xenophobic demands or poorly formulated foreign policy. The reality was that many of these countries were in need of a labour force. Some of the refugees were highly educated and came with professional knowledge and skills beneficial for further economic growth and technological advancement — skills the host countries did not need to invest any money in to reap the benefits of. There were also those people that the host countries had already “invested in” prior to the initiation of the return process (through additional schooling or language classes, vocational training, etc.). They became a commodity that the host countries reluctantly gave up, despite the official return politics.

Most of the people that were internally displaced remained in places of their displacement having already formed social safety networks in those places, or due to obstructions and lack of support and resources. In the end, **approximately half** of the 2.2 million refugees and internally displaced persons did not return to their pre-war homes.

For those that did return, voluntarily or involuntarily, **the process of return was obstructed and accompanied with violence**. The buses carrying people to visit their pre-war homes in preparation for return were stoned and they often had to ask for protection from the UN peacekeeping forces and the International Police Task Force. Harassment of and assaults on the returnees and their property were frequent. Even killings took place. At the institutional level, the returnees were prevented from gaining access to their property, employment, healthcare, pensions and so forth. The violence and the obstruction stopped only after the OHR started using the Bonn powers to impose the CRPC’s decision and to remove political officials identified as obstructing the refugee return. Furthermore, lacking sustainable livelihoods, some of the returnees even ended up moving

back to the countries in which they were refugees during the war and had attained permanent residency or citizenship.

All of this meant that the desired effect of “reversing” the ethnic cleansing simply did not happen.

Whatsmore, the return process was happening in parallel to implementation of aspects of the DPA which were inimical to the return process: namely, administrative divisions established by the DPA. The way the DPA imagined the division of the country led to the process of “exchange of territories,” **resulting in expulsion of people** and continuation of the practice of ethnic cleansing and homogenisation of territories. The extreme example of this was the forced **expulsion of Bosnian Serbs from the suburbs of Sarajevo** during the 1996 city reunification process. The Serb ethno-nationalist elites ordered terror campaigns that forced tens of thousands of people, many wanting to remain, to leave their homes, further entrenching the idea of “ethnically separated territories” as the only option.

Many years and millions of USD later, this approach has neither helped peacebuilding and reconciliation or reversed ethnic cleansing.

However, the return and restitution provisions in the DPA were limited to individual rights of refugees and internally displaced persons; they were detached from other segments of right to reparations; and they lacked understanding of the context they intervened in. The lack of a comprehensive approach to reparations within the DPA prevented the achievement of the aims of the international community. Many years and millions of USD later, this approach has neither helped peacebuilding and reconciliation or reversed ethnic cleansing.

6.1.2. The political economy of property return

The negotiations of the DPA were entirely under the influence of neoliberal capitalist ideology. Consequently, the restitution provisions in Annex VII were built on the understanding of the concept of property as entirely reduced to individual ownership. There was no understanding that return of property also had to happen at the collective/communal level in order for the society to recover from war.

It is worth reflecting over the political economy and the ideological shift taking place in BiH as a result of the provisions for restitution within the framework of the DPA. The return of property was built upon an understanding of the concept of ownership and property that was different from the one that existed in the Socialist Republic of Bosnia and Herzegovina (SRBiH) and the whole of the

Socialist Federal Republic of Yugoslavia (SFRY). The concept of ownership and property that was in operation at the time when the war started in BiH was structured around the socialist concept of **social ownership**, while the restitution in the DPA was entirely structured around the capitalist concept of private property. This meant that after the war, the laws had to be adjusted in order to translate the previous tenancy rights into private property ownership rights. These adjustments only concerned housing that was socially owned (apartment blocks mostly), while those that lived in their own houses were not affected by the new legal interpretations of the ownership.

However, social ownership was the building block of the socialist society and as such was not only applied in relation to housing but also when it came to factories, industrial complexes, and social infrastructure. All of those were socially owned as well. In the Constitution of SFRY, and consequently in the Constitution of SRBiH, the workers were the constituent part of the social and political structure of the state. The workers, through their labour and renunciation of the earned surplus value, invested in development of factories and other social infrastructure and were owners and managers of them. This meant that the workers owned and decided over the means of production (i.e. all the physical and non-financial inputs used in the production, including raw materials, facilities, machinery and tools), not the state or the municipality. They also owned and decided over the generated surplus value. Their ownership also included the many holiday resorts the factories built on the Adriatic coast or in the mountains across BiH for the benefit of the workers, to be used during holidays. Same logic was applied to social infrastructure such as hospitals, schools, railways, and other public service infrastructure, where the management was in the hands of people who worked there.

Socially-owned property could not be privatised without explicit approval of its owners—the working people of BiH.

However, in the midst of the war, while the people were surviving the military onslaught on their lives, the war governments made sure to dedicate their time to legal redefinition of ownership. Through adoption of laws in expedient procedures under the state of emergency, the war governments transferred the social ownership to state ownership. This was a necessary step towards deploying the method of privatisation through which those in power could profit. Not only were the people tricked into the war to sacrifice their lives for the territories to be transformed into fiefdoms of the ethno-nationalist elites, but also for their property to be stolen by the same elites.

Considering that social ownership was a constituent component of the BiH social, political, and economic structure, at the very least this “transformation” deserved a referendum or some other form of direct democracy. By preventing this, the war governments literally robbed the workers of their property, turning socially-owned property into the spoils of war. This property was never restored to its rightful owners after the war, as the DPA reduced restitution only to private property.

The ethno-nationalist elites in power treated state-owned property as their own private property, to be used as they saw fit. The dispossession started with factories, which were privatised through a very dubious and corrupt process. This often involved international and local so-called investors buying factories for bargain prices, selling off everything worth selling, and leaving the workers on the street, barehanded, without work, salaries, pensions, or hope. The ethno-nationalist elites got rich while the workers were left in poverty. Workers did not receive any form of adequate compensation for their investments and participation in building factories and other social infrastructure. They were simply ignored under the pretence of “building peace”. The same thing is now happening with social infrastructure (hospitals, transportation, utilities, etc.). The dispossession is continuing under the neoliberal concept of private-public partnership. Using the same recipe of successfully devaluing the factories by running them down and then selling them for bargain prices to friends, relatives, or international interest groups, now the social infrastructure is lined up for sale.

The dispossession of people living in BiH of their social ownership is one of the most blatant examples of the DPA's focus on the economic and political transition from socialism to capitalism, rather than from war to peace.

The limitations of the restitution process as foreseen in Annex VII was helped along the way by pretending ignorance to the specificities of the concept of ownership in the BiH context, and by the fact that much more than just housing units should have been restored to their rightful owners. Using the DPA to make a shift from the constituent workers to constituent peoples (i.e. workers' constituency to the constituency of the ethnic groups), the DPA allowed the ethno-nationalist elites to establish fiefdoms and the international community to establish a colony. This enabled both ethno-nationalist elites and the international community, including international investors, to jointly (and very successfully) continue in the post-war period to loot our common property and resources. Given that the looting process started during the war, to us it seems that the DPA is more of a document that consolidates war gains than a peace agreement.

6.2. Neither helpful nor unhelpful: Annex VI

Another document relevant for the discussion on reparations is **Annex VI** of the DPA. Annex VI represents the Agreement on Human Rights. It was included primarily to address violations of human rights occurring in the period after the war. From its content, it can be deduced that the intention of the drafters was to secure peace through securing protection of human rights after the war. In that sense, Annex VI is not part of the DPA's limited reparations approach. However, throughout the years, Annex VI did provide some space for raising the issue of reparations and addressing some of the consequences of the war.

Annex VI deals with the establishment of the Commission on Human Rights (the Commission). The Commission consisted of two bodies: the Office of the Human Rights Ombudsman (OHRO) and the Human Rights Chamber (HRC). The OHRO was headed by an international appointee. According to the "transfer" provisions in the Annex VI, five years after the DPA came into force the parties to the agreement were given an option to transfer the operations of the Commission to the institutions of BiH. Consequently, the Commission ceased to exist once the HRC was dissolved in 2003, and the OHRO started functioning as **an independent body** with three Ombudsman, all from BiH, upon the adoption of the Law on Ombudsman in 2004.

The lack of institutional and societal memory
contributes to the depolitisation of society.

We have to reflect on the fact that while trying to trace back the transformation of the Commission and creation of a separate, domestic state institution of the OHRO we faced difficulties. We could not find any publicly available chronological overview of how transition towards a national OHRO took place; or information about the work of the first, internationally appointed Ombudsman; or work of subsequently formed and then dissolved Offices of the Ombudsman on entity levels. There was also no trace of the tensions between the entities and the state in the process of establishing a joint state-level OHRO. This falls within the domain of politics of forgetting we have written about elsewhere. The lack of institutional and societal memory contributes to the depolitisation of society. The institutions themselves don't seem to find it important to maintain a public record of how they were created, other than indolently quoting the relevant annex of the DPA where they are mentioned, or relevant national law. There seems to be a lack of understanding of the importance of maintaining a transparent, accessible public record of how BiH institutions were created, or dissolved, as a result of the implementation of the DPA.

As regards the dissolution of the HRC, it is equally hard to trace the reasons and process behind the closure of HRC in 2003, especially considering the large number of backlog cases. Upon the closure of HRC, the backlog cases were transferred to the Constitutional Court of BiH (CCBiH), but even that part has not been transparently presented. True, an **Agreement in Accordance with Article XIV of the Annex VI of the General Framework for Peace in BiH** (the Agreement), was signed between BiH, the Federation of BiH, and the Republika Srpska. The Agreement provided for closure of the HRC and the transfer of the HRC backlog cases to the CCBiH. However, it did not provide the reasoning behind the decisions leading up to the Agreement. Understanding the reasoning behind the transfer of the cases to the CCBiH instead of keeping the HRC operational until adjudication of all the cases is an important part of societal memory.

Furthermore, there is no information on how many people were eventually affected by the differences in admissibility criteria between the **HRC** and the **CCBiH**. The CCBiH provides a **short overview** on its website about the transfer of cases, but only lists “important and influential” decisions and gives a partial picture.

The processes of closing Annex VI by creating the national OHRO and by transferring the HRC cases to the CCBiH are almost entirely invisible. They only remain in the personal memories of the people directly connected to these processes or institutions, and on the **remnants** of websites that might disappear from the digital space at any time.

6.2.1. The case of the Srebrenica Commission

Nevertheless, before its closure the HRC did play a role with respect to reparations for a specific collective of victims. Even though it may not have been envisioned as a mechanism in support of the process of dealing with the past, the HRC was useful in addressing some of the human rights violations that arose after the war and were related to mass violations of human rights committed during the war. For example, a number of **families of missing persons from Srebrenica filed an application** to the HRC claiming discrimination in connection to the right to know the truth, right to effective remedy, and right to access to information. They alleged that, as close family members of missing persons, they were themselves victims of human rights violations resulting from the lack of specific information on the fate and whereabouts of their loved ones last seen in Srebrenica in July 1995. They sought to know the truth. As a result of the application, the HRC found violations of obligations to secure respect for their rights to private and family life, violation of the right to be free from inhuman and degrading treatment, and discrimination based on the ethnic origin in the applicants’ enjoyment of those human rights.

These violations were caused because the entity of the Republika Srpska failed “to inform the applicants about the truth of the fate and whereabouts of their missing loved ones, including conducting a meaningful and effective investigation into the massacre at Srebrenica in July 1995.” Consequently, the HRC ordered the Republika Srpska to, among other things, conduct a meaningful, thorough, and detailed investigation into the events giving rise to the established human rights violations; disclose the results of the investigation; and to release all information available at the time the decision was adopted.

Despite the HRC’s ruling, the investigation into the genocide in Srebrenica was implemented only after the OHR applied pressure on the government of the Republika Srpska to establish a commission to conduct the investigation. The commission was established in December 2003, as a temporary working body of the Republika Srpska government and was called *The Commission for Investigation of the Events In and Around Srebrenica between 10th and 19th July 1995* (Srebrenica Commission). The Srebrenica Commission was given the mandate to investigate the locations of the killings and mass graves, and identify the victims. The **findings** of the Srebrenica Commission came out in 2004 and were in many respect historical: a formal governmental body established facts about the killings, the missing persons, mass graves, and all of the events that led to the Srebrenica genocide. However, even these established facts were not conclusive. The Srebrenica Commission concluded in its final report that the 7,779 identified people was not the final number, and that the government of Republika Srpska should carry on with the investigations.

The work of the Srebrenica Commission, as well as its findings, were deeply politicised by the Serb ethno-nationalist elites and they actively participated and encouraged genocide denial. No matter the established facts by the Srebrenica Commission, the initial endorsement of its findings by the government of the Republika Srpska, and on top of that, the findings of the international and national courts, the negation of the genocide in Srebrenica is still **part of the mainstream discourse in Republika Srpska**. In fact, recently the government of the Republika Srpska denounced the findings of the Srebrenica Commission and formed a new commission, with a task to not just relativise the findings of the Srebrenica Commission but to re-write the established truth. This represents continuation of the genocide and it prolongs harming of the people who survived it.

As a side note, we have to make another reflection on the process of our research for these essays. When we tried to find the report of the Srebrenica Commission in order to link to it for readers’ easier reference, we were shocked by the fact that the report seemed to have disappeared from the online realm. At the moment of writing these essays it could not be found, at least not through the biggest search engine, Google. Only after using the far smaller search engine, Bing, were we able to find the full report. When we used Google to search “Srebrenica

Commission findings” in both Bosnian/Croatian/Serbian and English, or by using the full name of the commission, the results that came up were mostly various analyses (academic or NGO) of the findings, but not the report itself. Also present, abundantly, were various articles and “analysis” with genocide denial messages. The prevalence of genocide denial articles seems to be a result of a purposeful action to relativise the factual findings concerning the genocide, and to, by sheer numbers of articles, push out the truth.

6.2.2. The problem of ad hoc solutions

It is important to note that while a limited number of families of victims from Srebrenica were able to use the HRC to redress harms directly related to the war, this was on an individual case-basis and provided no systematic solutions for reparations. Only the lucky ones, who were aware of the proceedings and who submitted applications early enough for it to be resolved before the closure of the HRC, could obtain some legal satisfaction. We can see this also in other cases before the HRC: the return of property seized during the war; individual claims regarding trafficking in children; refugee return; etc.

By the end of 2002 the HRC had over **12,000 unresolved** applications, and once the mandate of the HRC expired in 2003, the applications were transferred to the CCBiH. This proved to be detrimental for many applications, because the CCBiH had different admissibility standards than the HRC. Consequently, the majority of the backlog applications were rejected by the special Commission on Human Rights established within the Constitutional Court for this purpose.

In retrospect, the DPA understood the protection of human rights post-war as part of prevention of recurrence of the war but omitted addressing war-related grievances as part of that prevention.

This negatively affected the peacebuilding process, since the grievances remained unredressed and could as such be easily manipulated by the ethno-nationalist elites. In the absence of a redress mechanism, the HRC became the venue for addressing everything. Consequently, in the situation of mass violations of human rights (pre – and post-war), the HRC became overcrowded with cases that it could not efficiently address.

6.3. Filling the gap left by the DPA: The inevitability of reparations in response to harms suffered

The mechanisms described above, as foreseen by the DPA negotiators and as they played out in reality, were simply not a sufficient response to the post-war realities of the society that was trying to recover from the war. The post-war reality of BiH almost compelled the institutions across the various administrative levels to put in place some (limited) forms of reparations for the many victims of most gruesome war crimes.

However, the lack of a comprehensive mechanism for reparations in the DPA contributed to BiH dealing with reparations through a set of detached processes, targeting certain collectives of victims (those most visible) with a “one-size-fits-all” approach. The “collective” is defined by a specific crime, e.g. camp imprisonment or families of missing persons.

Soon after the war it became evident that reparations, in their broadest sense, were key for the recovery—economically, socially, and politically.

However, lacking a framework for this key aspect of peacebuilding the reparations in BiH were reduced to a projectised and disharmonised approach. The survivors saw the state obligation to redress war-time violations and harms shattered into pieces, with victims’ access to redress dependent on whether their experience of violence was considered useful by ethno-nationalist elites; or whether a victim collective was strong enough to apply pressure on ethno-nationalist elites and/or the international community; or eventually, if particular aspects of the violations they suffered was interesting enough for the international community resulting in sufficient donor funding for NGOs to implement projects. What is common to all victims is that they have all faced numerous problems, first in being legally recognised as civilian victims of war and then in accessing the rights arising out of that legal status.

6.3.1. Invisibility of harms

The lack of a redress mechanism made it impossible to identify the full range of potential beneficiaries to reparations, or to define adequate reparative measures in response to those violations and harms. The absence of delivery of reparations in a systematic and holistic manner meant that no process of identification of war-time human rights violations and subsequent harms took place. The focus has instead been on addressing the violations (i.e. the crimes) that had a legal definition.

The harms that people suffer as a result of a crime, however, are not all encompassed by legal definitions, and are thus often rendered invisible.

For the purpose of our further discussion, it is important to clarify the difference between violations and harms. Violations have already got legal definitions within the framework of international human rights law, international humanitarian law and international criminal law. They are recognised either as human rights violations or international crimes. The harms that people suffer as a result of a crime, however, are not all encompassed by legal definitions, and are thus often rendered invisible. Furthermore, human rights violations and international crimes are gender neutral, which in the framework of the patriarchal legal system of international law leads to overlooking the gendered nature of both violations and harms. This makes a proper identification of harms and the recognition of their gendered nature particularly important. It would help discern multiple and different consequences of the violations (no matter whether those are recognised as crimes or still don't have that status) and enable the search for more structural and intersectional solutions. Such solutions, sensitive to people's various experiences and needs, would complement the retributive responses to violations.

Redressing harms through violations, as if a violation always causes the same harm, as has been the case in BiH, contributes to creating uniform interventions to addressing supposedly homogenous groups of victims. The identity of the "group" is determined by the nature of the crimes committed against them, regardless of the harms it caused, and individual victim's social, economic, and other position(s) in society. As noted by **Kirsten Campbell**, a country transitioning from war to peace must consider "group as well as individual injury and recognize that those injuries are the product of that conflict. This also means that we are recognizing that the very groups that we are describing did not preexist those harms, but are actually often created through them." In order to provide for a comprehensive dealing with the past that would contribute to peacebuilding as well as to a just and equal society, the restitution and retribution mechanisms should address the broad spectrum of harms while bearing in mind both community and individual needs. However, what has been done in BiH is unfortunately the exact opposite.

In order to provide for a comprehensive dealing with the past that would contribute to peacebuilding as well as to a just and equal society, the restitution and retribution mechanisms should address the broad spectrum of harms while bearing in mind both community and individual needs.

To illustrate: a victim is recognised only through one type of violation, e.g. a victim can only be a victim of forced displacement or a victim of wartime rape, but never both. Besides, some experiences are assigned more worth than others depending on what potential for mobilisation the ethno-nationalist elites assign to them (the “potential” being decided also by the location where the violation took place). Given the patriarchal framework, the death of a male relative of a woman who survived genocide or ethnic cleansing is given greater value than her experience of, e.g., forced displacement, while for women who survived concentration camps, it has been the experiences of sexual violence that have received “recognition” and not the forced labour they were subjected to, or the sole fact that they were imprisoned in a concentration camp. In fact, women survived intersecting harms: death of their husbands/other family members, they became sole bread winners and/or survived displacement, detention, forced domestic labour, rape and so on. However, the reparations claims that have been reduced to compensation could only be claimed based on one violation and the so-called choice is usually made based on what is more “beneficial” for each individual victim (“the benefit” is not necessarily measured in money but also in the status awarded by society).

6.3.2. Administrative compensations as dominant form of reparations

Some forms of reparations (mainly compensations) can be found in the legal frameworks of the entities (the Republika Srpska and the Federation of BiH). Through administrative procedures, civilian victims of war have been awarded monetary and non-monetary compensations stipulated by two different entity laws: *the Law on Basis of Social Protection, Protection of Civilian Victims of War and Families with Children* in the Federation of BiH and *the Law on Protection of Civilian Victims of War* in the Republika Srpska. Republika Srpska also adopted a separate law for victims of torture in 2018, which change the way the victims of sexual violence and rape, living in that entity, access the administrative compensations. The only victim collective recognised at the level of the state are families of missing persons. Their access to a limited set of reparations is dealt by the **BiH Law on Missing Persons**. However, unlike those who received some compensation through the entities’ laws, the families of missing persons have not been able to access socioeconomic aspects of the reparations provided for in the Law to date. This does not necessarily mean that some of the family members have not accessed compensation through other categories of civilian victims of war.

The most common approach within these administrative procedures is a requirement of 60 per cent disability level in order for a person to be awarded compensations arising from the status of civilian victim of war. This benchmark is the same in both entities. Apart from the families of missing persons, an exception to the 60 per cent rule is also made for survivors of sexual assault and rape. This

group of survivors have been awarded a special status within the entities' laws that prescribe different procedures for their legal recognition and full compensation. This exception was introduced in the Federation of BiH in 2006 after massive pressure from women's organisations that provided assistance to women survivors of wartime rape. Republika Srpska only recently (in 2018) adopted a new law that enabled the survivors of wartime sexual violence to avoid the 60 per cent disability benchmark to receive compensations. Both entities have gender neutral formulations for the recognition of the status for the survivor of wartime sexual violence. Other victim collectives such as persons imprisoned in concentration camps (victims of forced detention), if not able to prove 60 per cent disability, are not entitled to compensation.

Monetary compensations

It is worth noting that the most dominant form of support to the victims are monthly payments. The right to monthly payment can be understood as a form of reparations (namely monetary compensations). However, this payment is not based on the violation of rights or harms suffered, but exclusively on the disability level. It is situated within a framework of social benefits and economic assistance to disadvantaged groups in society, which gives this right more of a social welfare character than that of reparations. This unjustifiably puts the civilian victims of war and people in a need of social welfare support in competition with each other over scarce resources. Furthermore, due to this conflation, civilian victims of war that receive monthly "benefit" are subject to means testing and will automatically lose the right to other social benefits, such as child allowance. Persons living outside the country for more than three months cannot receive the payments, as if one's place of residency removes one's need to have the harms redressed. This conflation (in law and public narrative) between compensations as part of the concept of redressing violations and harms caused by the war, and social benefits has numerous impacts on victims and society. It is financially and otherwise unsustainable, but what is more, instead of being a mechanism of acknowledgement of harms suffered, it creates a mess that then prevents provision of adequate support to anyone.

The monthly payment for civilian victims of war is very low, and is only a portion of what war veterans receive. This is partially due to the prejudiced understanding that civilian victims of war are mostly women, while veterans are of course male! As such the collective of civilian victims of war undergoes the process of feminisation. As explained by **Cynthia Enloe**, a distinguished feminist writer, theorist, and professor, the process of feminisation is "a process of imposing allegedly feminine characteristics on a person—man or woman—or a group or a kind of activity. Often the goal of feminizing someone (or something) is to lower his (or its) status." The process of feminisation leads to an understanding that the low monthly payments are considered "sufficient" for "women's needs".

In the situation of survivors of sexual violence, where it is obvious it is women who are mostly receiving this type of “benefit” we see different gendered dynamics this causes. This “income,” in combination with high unemployment among other family members, made women family breadwinners or heads of households. This strengthened the burden of domestic and care work placed on women, while at the same time contributing to keeping women outside of the public space. Other types of supportive interventions e.g. education, vocational training or employment that helps the women to leave the private sphere were either not implemented or even considered. Furthermore, it is important to say that not many women have applied for and received these benefits. This tells a lot about both the administrative hurdles in accessing these rights, but also of their inadequacy.

On the other hand, the concentration camp imprisonment along with torture have been seen as crimes targeting more men. Those were not compensated for, unless being able to prove at least 60 per cent disability. Subsequently, the male civilian victims of war were considered able to work and provide for themselves.

Non-monetary compensations

Monthly payments are not the only so-called entitlements. Entities’ laws stipulate a number of other rights, such as compensation for assistance and care by another person, financial support in purchasing medicine and orthopaedic aids, vocational training, priority in employment and housing, psychological assistance, and legal aid. However, it is important to underline that non-monetary benefits are not systematically available. Access to the non-monetary rights is limited and hampered by complicated bureaucratic procedures. In the case of the Federation of BiH, where the implementation of *the Law on Basis of Social Protection, Protection of Civilian Victims of War and Families with Children* is left to the ten Cantons, the fulfillment of these rights is highly conditioned by the budgetary and other constraints of the different Cantons. There is also a difference in the available rights between the Federation of BiH and the Republika Srpska.

6.3.3. Compensations through courts

The BiH legal system also allows for compensations to be claimed through courts, both in civil and criminal proceedings. But even in this segment the **victims face obstacles**. There are limitations to both access to courts as well as what victims can achieve once they enter the legal battle.

In civil proceedings, the victim has to be able to afford a lawyer. This is not a possibility for the majority of the victims whose socioeconomic situation does not allow for such “luxuries”. Those that do find means and decide to go to court will be faced with the burden of proof, which is entirely on the victim, both concerning

the crime and the level of harm suffered due to the crime. For those victims who, after lengthy proceedings, succeed in having their compensation claim recognised, the collection of the awarded compensation is difficult. The claims they filed were against the Federation of BiH, the Republika Srpska, or the state as such. If successful the awarded compensations were turned into public debt by the entities, with payoff scheduled many years later. Since 2013, due to **the decisions of the Constitutional Court of BiH** regarding statutory limitation issues, many claims have been rejected due to late submissions.

It is unclear what is behind the sudden change of the case law and the introduction of the statutory limitation, a limitation that was not applied prior to 2013. Before then, there seems to have been an acceptance of the fact that people might not have been able to file their claims “in time” due to specific circumstances related to the requests for war compensation. We can only do our best to guess why: perhaps the reasoning behind such a change in position is to be found in the political economy of the post-war ethno-nationalist elites’ calculations of how many claims the budgets can handle, and the fact that BiH lacks a comprehensive reparations programme that would unburden the institutional budgets from these types of individual and ad hoc claims.

When it comes to criminal proceedings, the compensation claims do not have statutory limitations. Nonetheless, the process for obtaining compensations through criminal proceedings has not been much easier and the experience of witnessing has many times been re-traumatising for the victims. Furthermore, even though the entities’ and state’s criminal procedure codes stipulate that compensations can be awarded in criminal proceedings, the courts deciding in criminal matters have tended to redirect the compensation claims to civil proceedings. The criminal courts argued that the compensation claims would create complications to already, according to them, complicated matters, burdening the courts with additional workload. This especially since they are already drowning under the backlog of war crime cases.

The right of victims to have their compensation claims included in criminal proceedings were ignored for a long time. Those whose claims were redirected to civil proceedings have again been faced with the burden of proof and new court proceedings. Even though this time the victims had only to prove the level of harm, the proceedings required additional time, energy, and emotional wellbeing to be invested in.

The criminal court venue is ultimately available to a limited number of victims, as only a handful of them will ever be able to see their perpetrators before the court, and hence get an opportunity to claim compensations.

This is because several things have to take place before a victim can see the perpetrator brought to justice. Firstly, the crime needs to be either reported or identified through investigation. Secondly, the perpetrator needs to be identified and arrested. BiH is a country faced with a massive number of war crimes. For an individual victim to see the perpetrator(s) prosecuted and punished, sufficient evidence and witnesses have been imperative for bringing the case to the court. Few victims have had that opportunity. In addition, there is no guarantee for the guilty verdict. And finally, even if the perpetrators are found guilty and the courts have awarded compensations there are no guarantees that the victims will ever see the compensations paid out. The perpetrator(s) are often determined to be in a poor financial situation as often whatever assets they might have are not in their name, leading to courts failing to execute the compensation order.

Some international donors, INGOs, and local NGOs initiated projects to lobby the criminal courts to start awarding compensations in criminal proceedings. These initiatives have only been in relation to conflict-related sexual violence cases and have had some limited success. Through a limited number of cases, it was proven that awarding compensations in the criminal proceedings was neither as complicated nor as lengthy as it was claimed to be. What was missing were adequate procedures. However, because the interventions were project driven, focusing on several individual victims of a particular crime, the process of awarding compensation claims as part of criminal proceedings has not yet been mainstreamed or systematically applied in courts. Lacking the attention of donors and NGOs, survivors of other crimes end up **still being redirected to the civil proceedings** if the accused is found guilty. If the accused is acquitted in criminal proceedings the victims are left without any real possibility of seeking compensation as they do not have who to file compensation claims against.

6.3.4. A (non)system that “privileges”

It is not lightly we talk about a “privileged position” of certain victim collectives as they are all continuously socially, politically, and economically victimised and marginalised by the ethno-nationalist elites in power. However, the BiH ad hoc approach to reparations has put different victim collectives in confrontation with each other, creating victim collectives that are seemingly in a privileged position in comparison to other victim groups. This seeming privilege arises out of the presence of certain collectives in the public space and the perception of them as being preferred by either donors or ethno-nationalist elites and thus able to influence the policies, or direction, of donor funding. The seeming privilege comes also from the fact that some victim collectives (and not all) have a recognised status within the laws, which gives them access to certain “benefits” (e.g. monthly payments).

This privileging in laws, policies, and donor funding does not necessarily mean an actual “benefit” for the collective or the individual victim for that matter. The national laws have been difficult to implement, in particular when it comes to accessing socioeconomic rights, while international initiatives usually end with the end of the project cycles. For example, in the BiH context, the **UK Preventing Sexual Violence in Conflict Initiative** (PSVI) meant that a significant amount of donor funding was directed in “addressing wartime sexual violence”. During these projects, numerous workshops, roundtables, conferences, fancy pamphlets, and awareness-raising campaigns were held. Millions of US dollars, Euros, and British pounds later, the collective benefit generated by these projects for the survivors of rape, in terms of reparation and their overall economic, social, or political position in society, equals almost zero. Maybe some individual women got some donations (e.g. green-houses), but even these were minimal, short-term and randomised.

Numerous NGOs received funding for their projects, and we all know that projects must be delivered, even if it means that the actual beneficiaries of those projects actually don't benefit at all.

While the direct benefits for the women was meagre, the public space was oversaturated with project activities, leaving an impression that the survivors are being “taken care of”. Numerous NGOs received funding for their projects, and we all know that projects must be delivered, even if it means that the actual beneficiaries of those projects actually don't benefit at all. What was lost in the process was support to the existing critical and sharp feminist efforts regarding demands for addressing the consequences of wartime rape and eventual prevention. The mainstreaming of neoliberal ideology in this particularly women-focused area, which also deployed politics of forgetting, meant that addressing patriarchal regimes and misogyny were side-lined.

When it comes to ethno-nationalist elites, their pretended endorsement of certain victim collectives and their subsequent recognition in the legal framework has always been about good PR strategy. On the one hand, they have always known that there will not be sufficient money to cover all the promised benefits and that most parts of the laws will remain unimplementable. In the end, their modus operandi throughout the last 25+ years has been non-implementation of the laws adopted in accordance with human rights standards. On the other hand, this demonstration of good will bought the ethno-nationalist elites additional votes, ensuring their power-positions remained intact.

Furthermore, another anomaly caused by the pretended privileging that has emerged through neoliberal insistence on individualism and identity, has been

that the ethno-nationalist elites have succeeded in co-opting individual victims to support their ethno-nationalist causes. In this sense, individual victims have been named “representatives” of the collective. Those individuals have potentially received some benefits, but a long-term, sustainable system has never been put in place. Instead, there have only been ad hoc, temporary solutions that can, in the grand scheme of the neoliberal transformation of the BiH economy, disappear overnight.

6.4. Instead of conclusions: (Re)creating harms through misguided reparations

Through its focus on the individual right to restitution of property and the hollow right to return, its disregard of the specificities of the BiH context (in particular the concept of ownership), and without understanding or paying attention to the complexities of peacebuilding, the DPA proved to be inadequate for securing sustainable peace. Being a “peace agreement” without the key ingredients for redressing violations and harms in a comprehensive way—at individual, collective, and societal levels—the DPA provided a framework for (re)creating the harms. Given the context and compromises made with the ethno-nationalist elites during the DPA negotiations, it was not likely that BiH would be able to successfully deal with the past through exclusively redressing individual trauma. Not addressing the harms holistically allowed for growing discontent and stirring of old/new conflicts.

Being a “peace agreement” without the key ingredients for redressing violations and harms in a comprehensive way—at individual, collective, and societal levels—the DPA provided a framework for (re)creating the harms.

The DPA negotiators failed to see the interconnectedness of all the different parts of the peacebuilding interventions, such as demilitarisation, reparations, war crime prosecutions, memorialisation, and even the political economy. This failure proved to be detrimental for the fulfilment of the limited redress provisions provided for in the DPA, especially the right to return. The concessions and compromises made with the militarised ethno-nationalists (as analysed elsewhere in this essay series)—in particular, defining war as an ethnic war, in combination with the neoliberal capitalist framework within which peacebuilding took place—deeply affected the broader process of dealing with the past, and its more narrow aspect, namely reparations.

Furthermore, the DPA negotiators were contemplating (or not so much!) these issues in the vacuum of a military base, understanding the war through the prism of conflict over territories and seeing the solution through the capitalist market economy. Consequently, the redress provisions in the DPA were reflective of that. In addition to assigning territories to ethnic groups, individual property was the only one returned (restituted). However, the war was far more complex and caused far more differentiated harms that transcended the individual redress of property or the right to return. Thus, those DPA provisions were far from sufficient to incentivise the country to face the consequences of the war.

The depressing reality of BiH more than 25 years into “peacebuilding” is of course owed to many different factors, but part of it is owed to the failure of the DPA to comprehensively address the violations and harms caused by the war.

How BiH went from social ownership to public ownership to dispossession of workers is in part a story of the failure of the DPA to address not just individual but also collective and societal harms; how the restitution of property failed to “return” the people is a failure of the DPA’s narrow understanding of how conducive environment for return is created; and how the ethno-nationalists have managed to use this lack of a systematic approach for their own benefit is also a story of the failure of the DPA.

However, the failure of the DPA did not end just there! The disregard of war consequences and the need to redress the many harms caused to numerous individual victims, as well as to the fabric of the society, allowed ethno-nationalists to manipulate victims. The ad hoc solutions and the unharmonised channels that different victims used to try to access reparations, have just prolonged the agony of both the individual victim and the society (as a collective survivor of the war). A long-term, sustainable solution is nowhere in sight.

Due to the lack of recognition of the need for redress mechanisms in the DPA and the subsequent failure to provide for systematic and holistic approach to redress, as described throughout this essay, individualised claims for justice have played out in BiH in several ways:

- One-dimensional approach to recognition;
- Creation of hierarchies between the experiences of violence;
- Individualised claims for reparations; and
- Individualised claims for prosecution of individual perpetrators.

In this regard, individual compensations and other forms of reparations, within an existing, systematic, and comprehensive mechanism for dealing with the past would not in itself be a problem. However, without a **comprehensive mechanism** that is able to provide redress to BiH's many victims and contribute to the collective recovery of the society and the social fabric, this individualised approach has not been enough for dealing with the past.

When a country does not have a comprehensive reparations programme accessible to all the victims, but rather leaves it to the individual's "luck" of seeing the perpetrator brought to justice and to a victim's capacity to request compensations within a complicated bureaucratic system, this then necessarily ends up with seemingly privileging one victim over the other. It puts survivors in a situation where they have to compete with each other (and other marginalised groups). They compete over the privilege to be recognised in the laws. Once recognised, they have to compete over scarce resources dedicated to social welfare that includes compensations. This non-system serves no other purpose but strengthening the positions of the ethno-nationalist elites who keep using the victims for mobilisation of ethno-nationalist sentiment in order to gain (even) more political and economic power. And more power for the ethno-nationalist elites means less chance of actually redressing the violations and harms caused by the war. Numerous NGOs and the international community have also benefited from this non-system: the NGOs keep securing the project funding, and the international community has yet another reason to remain in the country.

To properly address the gendered harm and obtain satisfaction and justice, even at the level of an individual, the patriarchal system needs dismantling.

There are of course other issues with the concept of reparations, particularly the aspects that centre around "restoration to previous conditions". From a feminist perspective this is problematic, as previous conditions were patriarchal. Thus, returning women, and the entire society, to "the previous" would be to keep them in a state of inequality and violence. Thus, individual justice claims within a patriarchal society are doomed to fail in delivering justice, because within the patriarchal framework the individual claim pertaining to gendered harm is rendered invisible. The perpetrator can be arrested or even put in jail, and the victim can even obtain some compensation either from him, or from the administrative unit that was obliged to protect the victim. However, this only deals with individual grief. The victim will still be returned to patriarchal surroundings and forced to continue experiencing harms caused by the crime, whether she is single mother, family breadwinner, survivor of rape or concentration camp, or a person with disability caused by a war injury. To properly address the gendered harm and

obtain satisfaction and justice, even at the level of an individual, the patriarchal system needs dismantling. This is the conversation we need to be having. Current feminist proposals are going in the direction of searching for contextualised, **transformative forms of reparations**, which we are proponents of. Unfortunately, in BiH this is still a non-existent discussion.

Outsourcing Justice Internationally

As we already pointed out in the previous essay, the Dayton Peace Agreement (DPA) did not provide for a comprehensive framework to deal with post-war justice. This could be interpreted as if the negotiators somehow envisioned a separation between a peace agreement, as a political settlement, and post-war justice needs. The reason for this separation might be the existence of the international mechanism established to deal with the war crimes in the territory of the former Socialist Federative Republic of Yugoslavia committed during the wars in 1990s, namely **the International Criminal Tribunal for former Yugoslavia** (ICTY). The ICTY was established in 1993, before the negotiations of the DPA even started and whatsmore, it seems, it provided cover for the DPA not to focus on international criminal justice.

Given the existence of the ICTY, the main public discourse at the time was that it would be sufficient to deal with the past through criminal prosecutions, and that the international arena was most adequate for that, as supposedly a neutral terrain. This neutrality was apparently considered to be a sufficient guarantor that the perpetrators of war crimes, crimes against humanity, and genocide would be held accountable, and that the war crime prosecutions would not be prejudiced, contested, or used for reprisals.

Without doubt, the ICTY was an important mechanism for delivering justice to people in Bosnia and Herzegovina (BiH). It provided facts about committed genocide, crimes against humanity and war crimes and sentenced almost all of the most responsible for mass atrocities committed during the war in BiH. One major and important case remained unfinished however, as **Slobodan Milošević** died during the trial. It is really doubtful that without the existence of the ICTY victims would see this level of criminal justice and commitment to prosecutions happen after the war, especially given the manner how the DPA was negotiated.

Nevertheless, as the courtrooms were divided from the public with a bullet proof glass, so has the ICTY's exclusive focus on criminal justice distanced it from social impact. The narrow understanding of the ICTY's influence on the post-war dynamic, as only relevant for the adjudication of crimes and not the overall social dynamic,

was limiting the full scope of justice that could have been delivered to the people of BiH. This lack of ICTY's comprehensive understanding of post-war justice was complementary with the DPA's unreflective approach to post-war recovery.

7.1. The Dayton Peace Agreement and ICTY

Looking at the DPA, it is noticeable that the DPA did not dedicate a specific annex or section to the ICTY, but only refers to it in order to assert the ICTY's role as the main criminal justice mechanism. Perhaps this omission occurred because the ICTY's mandate was already established, or because the ICTY provided the negotiators' with the perfect excuse not to address war violence through the agreement in any greater detail.

When the DPA does reference the ICTY, it is to determine an obligation of the institutions and parties to the agreement to cooperate with the ICTY. Furthermore, the DPA finds those who were indicted but failed to comply with an order to appear before the ICTY, or those who were sentenced for war crimes, not eligible to run for elections or be considered for various commissions formed by the DPA. So, when it comes to war criminals and their participation in post-war public political life, or in mechanisms established to facilitate peacebuilding, the DPA drew a line at sentenced war criminals.

However, without thorough and systematic vetting and lustration mechanisms in place, the DPA provisions did not prevent war criminals from participating in public political (or economic) life in post-war BiH prior to their indictments (which sometimes took years), or after serving their sentences. **Many who participated and were elected** to (key) public positions in the first post-war elections in 1997 **ended up later being sentenced for war crimes**. And many of those that served their sentences returned to BiH and entered the public political spotlight.

This was a logical consequence of the peace negotiation process based on making compromises with those most responsible for the war and war crimes.

After being legitimised through the DPA negotiations, participation in the elections of those in key political (and ideological) power positions was just a continuation of the whitewashing of ethno-nationalist ideology's role during the war.

7.2. An international attempt to end impunity

After the fall of the Berlin Wall and subsequent proclamation that the world has reached the end of history—i.e. that we had started living the post-ideological era—the space for the use of international criminal justice in situations of mass atrocities reopened. The idea of living in a post-ideological era allowed a new, invigorated focus on international legal mechanisms, and specifically on international criminal justice mechanisms. Two opposing ideological blocs that could compete and use the international arena against each other seemingly no longer existed. It is in this context that the ICTY came about.

Still, the prelude to establishment of the ICTY were strong demands articulated by victims, activists, and even some power holders that there needed to be accountability for war crimes. This was coupled with the global outrage about the documented and widely televised crimes taking place in BiH. While war crimes prosecutions were happening in BiH even during the war, they were marred with fair trial and reprisal concerns. At that time, there was no agreed international mechanism for prosecution of war crimes, and international pressure was built for the formation of an international ad hoc war crime tribunal as some form of guarantor of both neutrality and ending impunity.

The **ICTY** was established in 1993 by the UN Security Council **Resolution 827**. It was given a mandate to prosecute persons for serious violations of international humanitarian law committed on the territory of the former Yugoslavia, starting from 1 January 1991. However, the formation of the ICTY was not immediately followed by political, financial and logistical commitment of the international community, which was not certain how to handle an international accountability mechanism for international crimes. The ICTY started receiving proper funding only after the DPA was signed.

During its mandate, which lasted from 1993 to 2017, the ICTY **indicted 161 individuals**. Out of these, 90 have been sentenced and 18 were acquitted; some died during their trial or while serving their sentence, including one of the key negotiators of the DPA, Slobodan Milošević. The majority of the cases dealt with crimes committed during the war in BiH. Notably, by May 2021 when the information on the ICTY key figures was last updated, 59 of those sentenced have already served their sentence and have been released—free to again engage in public life and even run for public office. At the same time, BiH and the region have barely started dealing with the past.

When it came to ending impunity, the ICTY made an important contribution. It established facts about mass crimes that occurred in BiH and individual criminal responsibility for such crimes.

It also established that war time rape and sexual violence are prosecutable international crimes. The ICTY also advanced procedural standards for prosecutions and further developed the elements of already recognised international crimes. It also established international standards for **support and protection of victim-witnesses**.

However, the ICTY lacked both the determination to properly deal with ideologies that caused the war and incited war crimes and an understanding of its role in the process of dealing with the past. This role exceeds the mere establishment of individual criminal responsibility. It requires holding the very structures, which enabled and supported war crimes, accountable. Thus, the ICTY never stood a chance to become a real player in building peace in BiH. Instead, it became a mechanism that, in a perfunctory way, accepted the narrative about the ethnic character of the war that was confirmed in the DPA, but also used by the war criminals in their defence, allowing it to be manipulated by the ethno-nationalist elites as a tool for further mobilisation.

7.3. Failing to prosecute system criminality

The ICTY had a solid legal precedent developed at the Nuremberg trials, which were held in the wake of World War II. During these trials, prominent members of the political, military, judicial and economic leadership of Nazi Germany were prosecuted under the **concept of “system criminality”**. This concept refers to collective entities that “order or encourage international crimes to be committed, or permit or tolerate the committing of international crimes.”

Despite the existence of this precedent, the ICTY dogmatically insisted on individual criminal responsibility. The structures that supported and enabled the commissioning of the crimes in BiH, unlike the Nazi Germany, were never put on trial.

The work of the ICTY, set up in this way, was inadequate to support the process of dealing with the past. In BiH, mass war crimes were carefully planned and implemented to serve the higher goals of ethno-nationalist elites and the criminal

structures they created or appropriated—goals that were later carved into the maps and documents produced in Dayton. The ethno-nationalist elites created new structures (e.g. concentration camps) and appropriated existing ones (e.g. police, army, judiciary) and intentionally used them for the commission of war crimes under their ideological banner. In other words, war crimes were not simply a result of individual behaviour, but were committed because they contributed to fulfilling goals set forth by an ideology.

Prosecution of system criminality in the ICTY was made impossible by its insistence on interpreting the war in BiH as an exclusively ethnic war. Thus, any attempt at establishing system criminality was interpreted as **blaming an ethnic group**, no matter the fact that the prosecution of system criminality and criminalisation of structures could never result in blaming an ethnic group. Structures do not have an ethnicity, nor is ethnicity a concept which in itself has structures. Comparatively speaking, while Nazi and fascist structures and organisations were condemned and remain criminalised in most countries, blame cannot be placed on all Germans, Italians, or Japanese.

The ICTY repeatedly insisted on individual responsibility even though it was obvious that the mass crimes could not have been committed in a vacuum, without support of ideology and structures.

To some extent, the initial indictments against Karadžić, Mladić, Plavšić, and Krajišnik recognised this, but the set of circumstances—such as the plea agreement with Plavišić, the late arrests of Karadžić and Mladić, the understanding of the war and its aftermath through the DPA's prism of ethno-nationalist division of power, the fact that entire Europe rests on ethno-nationalist projects, etc.—turned the ICTY's deliberations completely away from system criminality.

A partial attempt to condemn the structures was made by the ICTY through a doctrine of criminal liability called **joint criminal enterprise**. The outcome of the judgments, however, still ended up being about individual responsibility for war crimes committed by a group, again failing to condemn the ideologies and systems and structures that enabled the group to commit crimes.

This approach by the ICTY created several problems in the fulfillment of its mandate of contributing to the restoration and maintenance of peace in BiH.

It also helped set the stage for how things played out in the post-war period. Failing to condemn the ethno-nationalist ideology, coupled with the similar approach in the DPA, allowed the ethno-nationalist ideology to thrive after the war. The claim that system criminality would condemn entire ethnic groups and that individual responsibility was an appropriate strategy further strengthened the ethno-nationalist elites in their power struggles. But more than anything else, it provided the ethno-nationalist parties with space to thrive and to continue, undisturbed, to build their violent ethno-nationalist projects that brought them to power in the first place.

Furthermore, by not criminalising the structures that were key enablers and implementers of war crimes (e.g. armies, police, judiciary, political parties, religious institutions, industry) the ICTY failed to recognise and condemn methods of mobilisation and lines of responsibility of the structures for commission of mass war crimes. Had they done so, they would have been able to adequately address them by: abolishing the structures that were militarised and infused with ethno-nationalist ideology; transforming the structures that could be transformed; and building new structures needed for sustainable peace. For example, for the commission of the genocide in Srebrenica, the transport industry was mobilised for the deportation of women and children from the area and for the transportation of men to the execution areas. Furthermore, heavy construction machinery was mobilised from the industrial sector and deployed for digging mass graves and later for hiding the crimes by digging up and transporting the bodies to secondary and tertiary mass graves. All of this required massive mobilisation of structures that engaged workers and machinery. This was, however, never addressed. Rather, these industries continued operating without any consequences. If not already in private ownership, they were privatised post-war—many times bought by the very persons who participated in the crimes—and carried on making profits without ever being held responsible for their role in the genocide.

There are other examples. In the city of Mostar under the political and military leadership of the Croat ethno-nationalist elites, slave-labour was used in some factories during the war. Men, held in concentration camps in and around Mostar, were brought to factories to conduct various types of forced labour. This also **remained unaddressed** and unredressed.

The bottom line is that the political parties, which were the main vehicles for spreading ethno-nationalist ideology and violent projects, and for instigating the war and war crimes, were never criminalised. Rather, their representatives participated in the peace negotiations and the DPA, which consequently allowed them to uninterruptedly remain in power in various forms until today. Imagine if the Nazi Party was invited to participate in peace negotiations and was later allowed to continue ruling Germany for 25+ years!

As a side note, even though the ICTY failed to address criminality of the structures, some reforms of some of the state structures were carried out – e.g. judiciary, police, the intelligence and security agencies, and the military. However, the reforms of some of these institutions were more oriented towards adjusting the structures to fit the liberal ideas of how they could best function within a capitalist system, rather than transforming them from structures that enabled and committed war crimes to structures that support and build peace. Furthermore, both the police and the judiciary went through some limited forms of **vetting**, which was introduced hastily, was poorly planned and terribly executed. It too followed the ICTY logic of individual responsibility. The vetting process seemed to have been planned by people with little experience, and unsurprisingly, resulted in removal of only some of the individuals that were connected to the commission of war crimes and human rights violations (**and some that were not!**), while leaving many more war criminals in place. Furthermore, the structures themselves remained intact and have been carrying on their bidding for ethno-nationalist elites ever since.

However, by missing the chance to address system criminality along with individual criminal responsibility, the ICTY failed to recognise that wars and mass atrocities are not acts of isolated individuals or groups of individuals, but are enabled by structures mobilised around certain ideologies.

To be clear, the ICTY made a significant contribution to fight against impunity by finding and sentencing some individuals responsible for war crimes. It also helped establish important facts surrounding the commission of the most egregious crimes committed during the war in BiH. However, by missing the chance to address system criminality along with individual criminal responsibility, the ICTY failed to recognise that wars and mass atrocities are not acts of isolated individuals or groups of individuals, but are enabled by structures mobilised around certain ideologies.

7.4. Failing to restore social fabric

The ICTY insisted on functioning exclusively within the framework of punitive justice. By doing so, it refused to accept its social responsibility towards the affected societies. The ICTY insisted that it could only deal with the facts presented by the prosecutors and in relation to the charged crimes. However, at the same time, for the court to establish that war crimes, crimes against humanity, and genocide were committed, certain conditions had to be met—including the existence of a protected group and/or armed conflict. To establish this, the judges

deliberated on the contextual background that, among other things, included historical reflections. Seeing themselves as exclusively dealing with the law and crimes, the ICTY approached this part of the judgment by inertia, many times going through short-cuts that involved uncritically retelling the historical narratives created by the ethno-nationalist elites. This led judges to randomly engage in analysing the context in which the crimes were committed, lacking proper understanding and thus reinforcing the narrative of ethnic conflict. At the same time the ICTY refused to accept any responsibility for how the contextualisation was phrased. By doing so, the ICTY failed miserably when it came to the restoration of the social fabric.

Seeing themselves as exclusively dealing with the law and crimes, the ICTY approached this part of the judgment by inertia, many times going through short-cuts that involved uncritically retelling the historical narratives created by the ethno-nationalist elites.

Many will say that its mandate was primarily to prosecute the individuals responsible for international crimes, but these prosecutions were never supposed to be prosecutions for the sake of the prosecutions. The UN Security Council explicitly stated in its **Resolution 808** that the establishment of the ICTY and consequent prosecutions were to contribute to “the restoration and maintenance of peace”. Maybe this was put in the resolution lightly and without much thought, but restoration and maintenance of peace requires acknowledging responsibility towards the affected societies.

7.4.1. Ethno-nationalist narratives remain intact

Due to the ICTY’s specific focus on individual criminal responsibility, many facts about the war have been established anew for each case (as per ICTY’s interpretation of the requirement of fair trial). Consequently, lacking a systematic approach to establishing facts about the whole war, including both its causes and consequences, the ICTY made the established facts in individual cases prone to ethno-nationalist elites’ manipulation.

The ICTY fell into the trap of ethno-nationalist narratives and even contributed to the framing of the war as an ethnic war. The condition for prosecuting a war crime was for the crime to have been committed by “an enemy,” which in the case of BiH was always defined through ethnicity. Thus, victims were always described through their ethnicity in relation to the ethnicity of the accused. Through this strategy, rapes or killings committed by a perpetrator with the same ethnicity as the victim remained

invisible. In this way, the ICTY prosecutions further entrenched the ethnic identities of the victims imposed by those committing crimes.

When the ICTY established facts in a way that suited the ethno-nationalist elites, they would praise the decisions; but when the established facts did not suit them, the ethno-nationalist elites looked for ways to ignore or attack the institution.

Sometimes the ethno-nationalist elites engaged in counting how many of those accused of war crimes came from “their” ethnic group, seeking balance in numbers and responsibility and claiming that the ICTY was targeting “their” group. Sometimes, if it suited their goals better, the ethno-nationalist elites even denounced individual war criminals—because at the end it all came down to individual responsibility. The most pronounced relativisation of the ICTY’s decisions was by using the individuals found guilty for war crimes as martyrs of the ethno-nationalist cause and proclaiming them as heroes of the ethnic group. This support also translated into enormous financial aid for those indicted and sentenced by the ICTY, both for their defence but also as support for their families and their comfortable lifestyles.

7.4.2. The gendered legacy of the ICTY

The legacy of the ICTY stretches beyond its failure to prosecute system criminality or its ability to uphold ethno-nationalist narratives. The courtroom and the international legal system were framed within the rigid patriarchal order. The underlying assumption during war crime prosecutions was that the war was an exclusively militarised, male business. This led to sidelining crimes committed against women during the war, as well as of their experiences of the war. The courtroom was populated with “important” men—male judges, prosecutors, defence teams, and witnesses—in far greater numbers and far more often than women. Women were usually given auxiliary roles, if that. Only **13 per cent of the witnesses who testified before the ICTY were women**. This indicates that women were not considered reliable witnesses, nor that their experiences were relevant for highly male endeavours such as war and even international criminal law.

The courtroom and the international legal system were framed within the rigid patriarchal order. The underlying assumption during war crime prosecutions was that the war was an exclusively militarised, male business.

The main courtroom actors were more interested in discussing military tactics and discussing crimes committed against men, and less interested in looking into gendered experiences of war and war crimes. Being far outnumbered, feminists could only scratch the surface of women's experiences of war. Only upon insistence of few very dedicated feminists who succeeded in struggles to take some of those important courtroom roles, and the international pressure feminists applied on the court, crimes of rape and sexual violence were given some thought.

The recognition of crime of wartime sexual violence did not mean that the ICTY was actually interested in fully examining how the war affected women, or to condemn and dismantle the patriarchal system that led to and supported the war.

True, the understanding of wartime rape in international criminal law was “upgraded” from the exclusive interpretation of **rape as an attack on men's honour**. But nothing else than that. While seemingly recognising some feminist demands, the courtroom only used such prosecutions to preserve its patriarchal nature. It insisted on portraying women through a highly sexist and heteronormative discourse of ethno-nationalist ideology where women were only seen as passive, rapable victims, and biological reproducers of ethnicity. The framing of the crime of rape was thus put within the realm of attack on an ethnic group and male protectors of that group, and not on women.

This allowed sexual violence and rape cases to be addressed only if they supported the main patriarchal interpretation of the war as being framed within the ethno-nationalist conflict. Consequently, the heteronormativity of the courtroom was highlighted. Sexual violence and rape were recognised as such in the cases of crimes against women, but were given other meanings (namely torture) if they were committed against men. The selection of witnesses and the prosecuted crimes of sexual violence tell only the story that supports the ethno-nationalist discourse. Rapes against women were recognised only if committed against women of ethnicities other than the perpetrator's and especially so if understood within the framework of their ability to reproduce the ethnic group. Wartime rape was primarily recognised in the courtroom if the witness stated that the perpetrator used ethnic slurs while raping her, or made claims that he was making babies of his ethnicity.

The ICTY accepted ethno-nationalist discourse that women are passive bearers of children because of their biological reproductive characteristics, while the cultural and social meanings of ethnic belonging are ascribed through fathers. According to ethno-nationalist discourse, a child's ethnic identity is determined

via the father's ethnic belonging. In accepting this narrative, through which the rape becomes a tool for destruction of an ethnic group, the ICTY allowed for the erasure of the fact that women experienced these crimes primarily because they were women (and not always, and only, as a tool for reproduction of ethnic group).

On the other hand, sexual violence against men was allowed to appear in the courtroom mainly if it could be interpreted within the framework of torture of inmates who were forced to engage in fellatio with each other. These types of crimes were enacted as part of the homophobic ethno-nationalist framework of humiliation of men belonging to different ethnic groups. Forced fellatio was seen as the final act of humiliation before persons were killed, and the forced act of "homosexual intercourse" as the signifier of the other ethnic group's weakness (see "Feminist Critiques of International Criminal Law in the Age of Identity Politics," in Indira Rosenthal, Valerie Oosterveld, Susana SáCouto (eds) *Gender and International Criminal Law* (Oxford: Oxford University Press, forthcoming 2022)).

The only crime that was seemingly recognised as crime committed against women (namely rape) ended up being portrayed as crime against an attacked ethnic group. And this was just additional material for the ethno-nationalist elites' manipulation of public narratives which they used for mobilisation and consolidation of ethnic groups, and for strengthening their power.

In addition to experiences of rape, the exception to the absence of women's war experiences was in **Krstić case**, in which it was clearly established that the killings of men, in combination with expulsion of women and children, proved the intent to destroy Bosnian Muslims, which resulted in genocide. However, even this case remained within the realms of the patriarchal system framed by **orientalist imagination of "traditional Muslim" society**.

7.4.3. Physical and metaphorical distancing of justice

Even though the war crimes, crimes against humanity, and genocide, as international crimes, deserve international level protection (i.e. if they cannot be prosecuted nationally they should be prosecuted internationally to prevent impunity), our post-war reality showed that it was not sufficient just to bring them into the international arena. Justice claims could simply not be reduced to internationally-adjudicated justice and the recognition of suffering could not be restrained to a courtroom—especially not to a courtroom far away.

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As regards the ICTY relationship with the broader BiH society, the results were not fantastic here either, for numerous reasons. The ICTY was displaced from BiH, making justice seem far away. For victims, families of the victims, and other interested parties, participation in proceedings was both physically and financially constraining. In addition, the proceedings were conducted through the mediation of interpretation; the publicly accessible decisions, judgments, transcripts, and all of the accompanying documentation were primarily in English and in a virtual form. Some of the proceedings were televised but never managed to evoke more interest than sports and TV shows being broadcast at the same time, as the distance of the court was not only physical, but also metaphorical.

It took more than 15 years to apprehend, prosecute, and adjudicate those most responsible. Once the accused were finally brought before the ICTY, the society was not interested in the proceedings taking place somewhere far away.

Furthermore, for a crime to be prosecuted it required, among other things, access to territories under the investigation, witnesses, material evidence, and at the end, also access to the perpetrator. Substantial financial resources were also needed to conduct the investigations. It took more than 15 years to apprehend, prosecute, and adjudicate those most responsible. Once the accused were finally brought before the ICTY, the society was not interested in the proceedings taking place somewhere far away. By that time, the society was also incapacitated—it could not absorb the full potential of the judgements, e.g. understand and accept all the established facts about the crime that led to the actual verdict. The DPA's failure to imagine and put in place structures that would enable active strategies for dealing with the past, as well as its ethno-nationalist power-sharing solutions, facilitated this societal powerlessness.

At the beginning of the ICTY prosecutions, the proceedings were also extremely lengthy, resulting in Slobodan Milošević dying before even the first instance judgment was reached. Instead of finding balance between the length of procedures and the need of the BiH society and the victims for establishing facts and truth within reasonable time, in order to comply with its **Completion Strategy**, the ICTY made the proceedings shorter. This was done through, among other things, reducing “**the victims to their forensic usefulness**,” calling them only if they had instrumental value for the proceedings. So, towards the end, the proceedings at ICTY started being more about practicalities than about establishing the facts about all committed crimes. The time was up for the victims to tell their entire story!

For many survivors, testifying in court was both empowering and re-traumatising.

Furthermore, the society had the perception that the war criminals were being rewarded by being prosecuted in the Hague. The standards of fair trial and prison conditions were high, and the proceedings placed the accused at the centre of the trials. When discussions about **their rights** and **comfort in the prison cells** were put forth either in the courtrooms or in public, the victims ended up feeling exploited and forgotten. In the courtrooms, the victims were only treated as witnesses, or more precisely, as evidence, whose credibility and reliability was on trial (rather than the accused). For many survivors, testifying in court was both **empowering and re-traumatising**. The only satisfaction for the victim-witnesses was the pronouncement of guilt, as the sentences were not proportionate to the crimes committed, especially if considering the ICTY's practice of releasing convicted war criminals after serving two-thirds of their sentences and enabling them to return to life as nothing happened. Media reports of "**castle-like conditions**" for those serving out sentences were in stark contrast to the everyday struggles for economic and social rights that victims were facing in BiH, creating the feeling of utter humiliation among the victims. All this strengthened the narratives of the ethno-nationalist elites in power, as not only could they manipulate images of war criminals, turning them into heroes, but they could also manipulate and mobilise dissatisfied and frustrated victims.

7.4.4. Outsourcing deliberations on reparations

The ICTY eventually detected the growing dissatisfaction and frustration among the victims and tried to correct the errors. But this occurred a little bit too late and a little bit too awkwardly. First, the ICTY made an attempt to address dissatisfaction with its way of work by forming an **Outreach programme**. Formed too late and limited in its scope, the Outreach programme could not overtake the ethno-nationalists elites' narratives, which were already firmly established in public discourse in BiH.

The second attempt by the ICTY to course correct included examining the possibilities to tackle previously ignored demands for awarding reparations during trial procedures. **The ICTY Rules of Procedure and Evidence** actually had provisions regarding restitution and compensation. The restitution of property could be directly awarded as part of criminal proceedings, while compensation for injuries had to be requested through national courts. However, during the proceedings **the ICTY never awarded property restitution, or advised victim-witnesses of possibilities for requesting compensations**. Subsequently, the ICTY Office of Prosecutors made some attempts to expand the scope of victim

compensation, but the judges at the ICTY **reported to the UN Security Council** that this would extend already long proceedings. The recommendation by the judges was to establish an international claims commission. This recommendation was never followed up.

In the political economy of the peace industry that developed in BiH, reparations became just another commodity.

Instead, the research on reparations was outsourced to the International Organization for Migrations (IOM). The ICTY tasked the IOM with developing a **report on reparations**, as an attempt to “facilitate discussions and political decision making about reparations for victims” of international crimes committed in the countries of former Yugoslavia. The report was commissioned within the framework of the ICTY’s Legacy. This outsourcing was particularly difficult to understand considering the complete lack of the IOM’s capacities and knowledge about the region and reparations. The selection of the IOM to develop the research report and hence influence the discussion was justified by the IOM’s previous “experience” with reparations, mainly its tracking down of beneficiaries for the German compensation payment process (Holocaust survivors and heirs of Holocaust victims). Needless to say, this report, as is usually the case with outsourced projects, never led to any political discussions or processes that would improve the lives of the victims. With this report, the ICTY seems to have completed its chapter with respect to reparations, and we ended up with multi-million dollar projects on reparations, implemented mainly by the United Nations Development Programme and the IOM. In the political economy of the peace industry that developed in BiH, reparations became just another commodity. While these projects ensured salaries for employees of these agencies for several years, their impact on the lives of the victims has been minimal.

7.5. Instead of conclusions: Great expectations and even greater disappointments

The establishment of the ICTY as the primary mechanism for the delivery of justice, coupled with the societal belief that punitive justice is the only adequate justice, contributed to raised expectations among the victims, and eventually led to their disappointment.

Reducing the dealing with the past to a process of criminal justice led to expectations that all those responsible for crimes would be criminally prosecuted. But addressing mass atrocities meant prosecuting a large number of perpetrators,

something that was never going to be feasible. It could have been anticipated from the very beginning that not all those accountable were going to be prosecuted, convicted, and given an appropriate sentence. The failure to communicate this to the victims, as well as to provide a complementary, holistic and comprehensive mechanism for dealing with the past (through the DPA), cost the ICTY its legitimacy within BiH society. Furthermore, this failure also impaired the ICTY's impact on the peacebuilding process. The insistence on punitive justice as **the only relevant justice, and on the individual criminal responsibility** as the only form of responsibility, played into the ethno-nationalist elites' work against the ICTY and its prosecutions—and consequently reaffirmed the dominant ethno-nationalist ideologies.

The space that was created by the DPA for ethno-nationalist elites to manipulate public discourse could not be disrupted only by criminal justice, nor through the ICTY.

As with everything else we've discussed in these essays, the ICTY prosecutions and its (in)ability to deal with mass violations did not take place in a vacuum. The space that was created by the DPA for ethno-nationalist elites to manipulate public discourse could not be disrupted only by criminal justice, nor through the ICTY. This did not improve even with the increase in domestic prosecutions. The prosecutions of war crimes were **transferred to domestic courts** once it became clear that the ICTY would not be able to handle the huge number of cases on its own. However, the narrative about the ethnic conflict and the dogmatic approach to prosecution of exclusively individual responsibility, as firmly established by the ICTY, were also transferred to the domestic courts.

By insisting exclusively on individual criminal responsibility and not addressing the ideology and structures that led to and supported the violence, the neoliberal matrix of identity belonging has become the perfect tool for furthering ethno-nationalist mobilisation, and for impeding an effective and meaningful process of dealing with the past.

The individualisation of criminal responsibility and victims' experiences was in opposition to the realities of the war, as it was marked with mass atrocities. Both victims and perpetrators were numerous. Addressing harms and violations, and ensuring accountability, could never be reduced only to individuals. The neoliberal

framework through which groups are exclusively understood through an identity framework fit perfectly into the ethno-nationalist narrative of mutually excluding ethnic groups in conflict with each other. By insisting exclusively on individual criminal responsibility and not addressing the ideology and structures that led to and supported the violence, the neoliberal matrix of identity belonging has become the perfect tool for furthering ethno-nationalist mobilisation, and for impeding an effective and meaningful process of dealing with the past. Here we need to stress that this is not to argue against criminal prosecutions, as they can be an important justice mechanism for dealing with the past. Rather, these are identifications of the problems that occurred in the context of BiH, intended to improve current practices so that the structures and ideologies responsible for war and crimes are also held responsible and removed from power.

Dealing with the Past in the Shadow of Neoliberalism

After the war, and all throughout these last 25 years, the need of the people to heal after the traumatic experience of having their lives ripped apart, and being subjected to violence and killings, has been tangible. People needed to have their experiences of the war acknowledged. They needed a public recognition of their suffering, both at the communal and individual level, and they needed this recognition to be a result of a societal dialogue.

Dealing with our past through international criminal justice, framed exclusively through neoliberal understanding of individual criminal responsibility and consideration of the war through the identitarian prism of ethnic conflict, was simply not enough for recognising and addressing violations and harms suffered during the war. Not having a minimum consensus about the war, and the insistence on individualisation of justice claims, made space for private and individualised approaches to memorialisation, (re)creating contradictory, and very often arbitrary, narratives about the past.

After the war, memorialisation practices, reminiscent of those widely used in the aftermath of World War II, started to surface all around Bosnia and Herzegovina (BiH). The practices included building memorials, museums, and monuments as places for memorialising events from our recent past and for holding commemorations. However, unlike World War II memorials, the memorialisations of the 1990s war became individualised and privatised. In our references to *private* and *individualised* approaches, we include everything that is not part of a commonly agreed and endorsed framework for remembering the war.

This essay focuses on critical examination of these private practices that have neatly integrated into the neoliberal politics of disintegration of a society, insisting on positioning individual narratives of suffering in opposition to each other. Devised in this way, these practices fit perfectly into the DPA's political solutions of inviolable rule of ethno-nationalist elites.

8.1. Claiming space for memorialisation: Privatising and individualising memories

The Dayton Peace Agreement (DPA) does not foresee any framework for memorialisation, truth telling, or fact finding, except for the establishment of the bizarre Commission for Preservation of National Monuments (**Annex VIII**). This glaring gap could have led to silence, in a sense that no crimes are addressed through commemorative events in order to keep the “peace” in the society, as has happened in, for example, Spain. However, the opposite happened in BiH as different victim collectives (created by a flawed process through which the collective was first grouped based on ethnic belonging and individual crime, and then homogenised as such) pushed to enter the public space and commemorate certain events. Unlike in Spain, where such were prohibited, privately initiated commemorative practices were also encouraged by the ethno-nationalist elites. The lack of a common framework for dealing with the past has left people in BiH with only one option: to each claim for themselves the public space needed to tell the stories about the harms they’ve suffered.

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The privatisation of the memorialisation has manifested in multiple ways, commemorating particular persons, events, crimes, battles, places, etc. These commemorations have included building memorials, monuments, religious buildings, and symbols in public spaces, putting up plaques, (re)naming of streets, and holding ceremonial or protest-like gatherings. These interventions and practices have been initiated by different actors, from individual persons, activists, different civil society organisations (whether advocacy groups, victims’ associations, or veteran associations), smaller administrative units such as local community councils and municipalities, to political parties and individual politicians. The initiatives run by administrative units have been limited to the local contexts, and despite their looking as if they were of institutionalised nature, they have often been detached from established facts (if those exist), creating their own private memories.

To illustrate, in the village Liplje, in the municipality of Zvornik, a number of people, including many women and girls, were held captive in a concentration camp. Many were tortured and killed, while women and girls were raped. To date, nobody has been indicted or prosecuted for these crimes, leaving

the victims and families of the victims in need of recognition. A private person decided to fill that gap by erecting a memorial at the site of the concentration camp. The inscription text on the monument commemorates “the many raped mothers and sisters” who were killed, along with some 400 other tortured people.

We don’t know much about who erected the memorial other than it is a man from the village. We don’t know what story he wants to tell. We do note, however, that the only women being commemorated through this private initiative are those who are defined as either sisters or mothers. Women who survived rape were not allowed to be anything else, or to simply be women. The monument that was built reminds of a gravestone, alluding, in a very problematic way, that no matter the fact that there were survivors, women who survived rape are being considered dead. However, no matter that this monument was built by a private person, it has become one of the central places of commemoration. The inscription on the monument, written by one person with all his (in this case patriarchal) prejudices, has become part of the public narrative.

8.2. Multiplicity of individual voices and competition for commemorative public spaces

In a context where everyone seems to have their own version of truth, the privatisation and individualisation of memorialisation has been caused by insecurities among the victims that their stories will not be told and will end up being pushed into oblivion. Not everyone has managed to claim public space for individual commemorations, as that has been dependent on the ability of various victim collectives to make themselves visible. This has put different victim collectives, already shaped by the limitation to individually claim redress for the harms, in opposition to and competition with each other.

Not everyone has managed to claim public space for individual commemorations, as that has been dependent on the ability of various victim collectives to make themselves visible.

To show this, we use the example of Prijedor. The city of Prijedor was subjected to systematic and organised persecutions of its citizens who were, by the perpetrators, identified as non-Serbs. The DPA’s division of the territory, agreed amongst ethno-nationalist elites, created the situation in which Prijedor ended up in Republika Srpska. However, the crimes in the area were perpetrated by the Army of Republika Srpska. Consequently, the victims were for a **long time prohibited** from any form of memorialisation, or if allowed, **were looked at with animosity**.

In the absence of any form of institutional support or strategic approach to memorialisation, the need for recognition of people's sufferings has been great. In the vicinity of Prijedor there were four concentration camps that were marked with torture, rapes and killings; numerous villages were burnt to the ground with the majority of their inhabitants killed during raids and take overs; and many people were forcibly deported. In the city itself, all non-Serbs were asked to wear white ribbons or mark their houses with white sheets, after which many were taken away to the concentration camps, killed in their homes, or are still considered missing. Prijedor is the city where **the biggest single mass grave** in BiH was discovered. Most of the crimes occurred in the period May–August 1992.

Importantly, Prijedor was the area in BiH to see the first prosecution of war crimes and crimes against humanity before the ICTY, and also the area that has seen the most war-related prosecutions in general. However, the distances of the courtrooms, coupled with the general disinterest by the state to find adequate memorialisation practices that acknowledge the suffering of all civilian victims, resulted in numerous victim associations starting rituals to commemorate the most significant events and dates for them personally.

So now, during the period from beginning of May until the end of August, Prijedor becomes a place with numerous commemoration practices, commemorating events such as the opening and closing of each concentration camp individually; each village commemorating the date when it was attacked and when massacres in the villages occurred; commemorating the date of missing persons; commemorating the date when non-Serbs were ordered to wear white armbands, etc. There is mutual support amongst the different victim groups. For example, camp prisoners and families of missing persons participate in each other's commemorative events. However, there is also competition between many about whose personal experience is the most "truthful," the most "relevant," or the most "deserving" of becoming a part of the public narrative.

Many times, those opposing commemorative practices seem to be pushed into the public space to instigate a "who started the war" debate rather than to be about dealing with the past and healing trauma.

For the Serb ethno-nationalist elites in power in Prijedor, all the commemorations are seen as threatening to their power. So, parallel and opposing commemoration practices have been deployed within the framework of private and individualised initiatives. Many times, those opposing commemorative practices seem to be pushed into the public space to instigate a "who started the war" debate rather than to be about dealing with the past and healing trauma. The opposing practices have been designed to excuse and justify the crimes committed.

Another example of a multiplicity of competing voices for public space is memorialisation of the siege of Sarajevo. During the war, Sarajevo, the capital of BiH, was physically divided. Most of the central parts of the city were under siege, and were under the control of the Army of the Republic of BiH, while the majority of the suburbs at the outskirts were occupied by the Army of Republika Srpska. **The siege of urban areas** involved arbitrary and targeted shelling and sniping of civilians and civilian infrastructure; cutting off water, electricity, food, and gas supplies, etc by the Army of Republika Srpska. Even though the political leadership of the Republic of BiH proclaimed zero tolerance towards war crimes in the areas under the siege, there were some war crimes committed by the members of the Army of the Republic of BiH. The occupied parts were marked with the Army of Republika Srpska's persecution of civilians that involved arbitrary and targeted killings, detention, torture, and rape of people that were either identified as non-Serb or were objecting the persecution of civilians. Civilians living in the occupied parts were also exposed to occasional shooting from the military positions from the parts of the city under the siege.

Memorialisation of war events in Sarajevo has taken on a selective, but also randomised, form. Given that there is no commonly agreed narrative about the war, and even about the siege of Sarajevo (no matter the ICTY's live trial broadcasting of important parts of trials and court-established facts), there are numerous layers of competing narratives. They compete over the dates when the siege started; whether certain events such as stopping the **military convoy withdrawing from the army barracks** were marked with war crimes or not and how many people were killed; whether people killed were soldiers or civilians; who was doing the killings; and so forth.

Some of the events in which a significant number of civilians lost their lives (e.g. **Markale market**, line for bread in Ferhadija street, or shelling of the school in Alipašino polje suburb) are commemorated, usually organised by their families or by the victim families' associations, and sometimes even by the majors of the municipalities where crimes happened. A monument remembering **children killed during the siege** is erected in the central part of the city, but not without its controversies (e.g. not all the names of all children killed are listed; especially omitted are the names of children killed in the occupied parts, whether by the occupier or the shells fired from the besieged Sarajevo). Across the city, numerous plaques have been erected by different individuals, companies, organisations and institutions commemorating their employees killed during the siege, either as soldiers defending the city or as civilians. The plaques are also erected at the sites where civilians or soldiers were killed, usually by the municipalities or lower-level administration. The places where the mortar blasts killed someone were preserved and coloured with red. This symbolic memorialisation became known as "**Sarajevo roses**". The sufferings of civilians under the siege were great and

the crimes were many. Thus, because they are individualised and private, the memorialisation and commemorative practices are also many.

Recently the city of Sarajevo has made a decision to erect another monument memorialising some of the civilians killed in the parts under the siege by the soldiers of the Army of the Republic of BiH in **Kazani**. This intervention is an important one as it is understood to be one of the first, if not the first, monument to memorialise “their” victims of “our” crimes. It is important to note that the site where the memorial was erected is physically inaccessible and invisible to the wider public, excluding it from the discourse of memorialisation of the siege. The **proposed inscription** on the monument is “Memorial Kazani (1992–1994). We will forever with sadness and respect remember our killed fellow citizens,” followed by 17 names of the victims that have up until the date been exhumed from Kazani and identified.

While this might appear as an official intervention, it is still a private one. The Mayor of Sarajevo came up with the “artistic” solution, the place where the monument was erected, as well as the inscription on the monument, without consultations with the larger society. Even though her suggestion was approved by the city council, there was still no societal dialogue—the only dialogue the mayor had was with army generals, who unsurprisingly supported her suggestion. But even this took place post factum and only once complaints were voiced.

Since the inscription on the monument was not publicly discussed, the space was opened to numerous (personal/private) opinions. Given there is no agreed common understanding about the war and its memorialisation, everyone voicing the opinion immediately takes the “right moral” position. So, the side identifying itself as Serbs claim that the monument should memorialise exclusively civilian victims who were Serbs—no matter the fact that the civilians killed were of all ethnicities or did not ascribe themselves the ethnic identity. Consequently, this side wants religious symbols to be included in the monument, e.g. the Orthodox cross, and to have the perpetrators identified by their nationality. Then there is the side that objects to naming the perpetrators. This is the side identifying closely with the Army of the Republic of BiH, which claims the crimes were committed by individuals and that the Army as such holds no responsibility. The third side objects for not naming the perpetrator on the inscription. Some of the people from the third side also question the chosen location for the monument.

The fact that there was no public discussion preceding the decision on the form and content of the monument created space for everyone to voice their personal opinion. All these voices understand the victims within the ethnically defined framework of “ours” and “theirs,” not as civilian victims of war. So, no matter whether the voices are in favour or against such a memorial, they all confirm the narratives about the war imposed by the ethno-nationalist elites. Moreover,

the mayor's suggestion raises more questions than it answers. It relegates the monument to an architectural intervention into the public space rather than being an intervention into dealing with the past.

All of the individualised and privatised memorialisation practices have created numerous parallel approaches that in the end create a cacophony of voices, where there is no communication, and everyone speaks (or yells!) over the other.

Instead of having a common framework for dealing with the past that allows for everyone to have their experiences of suffering acknowledged and enables us to build a sustainable future and peace, a situation is created where everyone insists their experience, and their way of dealing with the past, is the most adequate and important one. All of the individualised and privatised memorialisation practices have created numerous parallel approaches that in the end create a cacophony of voices, where there is no communication, and everyone speaks (or yells!) over the other. The commemorative practices are sufficiently similar in their performance that it appears as if they are not a result of private and individualised efforts but rather a part of the same, institutionalised framework. Then it does not matter whether the facts have been established or not; all the narratives, even the conflicting ones, have the same strength and influence in the public space.

What is taking place is that everyone remembers and creates narratives as they see fit. In the end all this "talking" either produces monologues or conflicts. Everyone argues with everyone, and no one gets satisfaction. In this way the conflict, as well as the personal traumas, are perpetuated. There is no constructive dialogue that can lead to mutual understanding and empathy. It is devoid of context, preventing the achievement of justice or dealing with the past.

Individual satisfaction is an important part of building sustainable peace, particularly from the perspective of victims' families seeking restorative justice. Thus, not all of the private and individualised memorialisation practices are *per se* bad in the message they are trying to convey, or the ways they are commemorating events. Nonetheless, if they are not part of a collective effort to deal with the past and without a commonly agreed framework, the limitless right to speak, where everyone can say whatever they want, no matter the consequences, creates space for competing narratives. Each group or private person can claim supremacy over other narratives and very often the space is used for relativisation and justification of "our" crimes. It also creates space for what the Croatian publicist Viktor Ivančić, during his presentation at the **Korčula after Party** in September 2021, called "commemorative instigation of conflict and violence".

8.3. Appropriation of commemorative events and marking of the territories

As with everything else in BiH, the private commemorations represent a good opportunity for ethno-nationalist elites. The majority of the practices have been a mimicry of the commemorative practices developed during the socialist era, when the commemoration of World War II events were in the function of strengthening the ideological foundations of the society. This time around, the ideological foundation is different.

The performative usage of symbols helps each ethnic group to “claim” its victims and contributes to furthering the narrative of “us” and “them”.

The commemorative practices usually contain religious symbolism and performances in order to make visible ethnic differences. In addition, given that the only visible signifier of difference (apart from religion) among the ethnic groups are flags, the flags are accompanying props for each commemoration as a way to demonstrate their belonging to a certain ethnic group. The performative usage of symbols helps each ethnic group to “claim” its victims and contributes to furthering the narrative of “us” and “them”.

With the framework of common interest being defined through ethno-national belonging, as structured by the DPA, the competition of individual narratives of suffering has easily translated into narratives suitable for ethno-nationalist elites’ manipulations. In fact, the encouragement for private commemorations in public spaces came with the ethno-nationalist elites’ eventual realisation that they could benefit from most of the commemorative events. So, numerous commemorative events were quickly filled with jostling ethno-nationalist political elites, eager to demonstrate their support for this or that event. The more ceremonies the ethno-nationalist elites can claim, the more space they have to infuse the ethnic group they claim to represent with the victimhood position, which they can conveniently instrumentalise as a mobilisation tool and for consolidating their echelons. But their interest for the victims and victims’ demands for justice vanish as soon as the ceremonies finish and cameras are turned off.

On top of that, some of the commemorative ceremonies are manipulated with the aim of **relativising war crimes**. By juxtaposing two different ceremonies commemorating two different crimes (committed against people identified as belonging to two different ethnic groups), the ethno-nationalist elites tend to claim the chain reaction of crimes, as if one crime caused the other and as such was justified.

The ethno-nationalist appropriation of the memorialisation practices for creation of counter-narratives go as far as genocide denial.

For example, some commemorative events and narratives are designed to juxtapose court-established facts and existing commemorative events for the genocide in Srebrenica. They include erection of memorial plaques and monuments celebrating war criminals and are part of the politics aimed at relativisation of war crimes and direct denial of genocide. These politics of genocide denial have been going on since the genocide was committed in Srebrenica, day by day opening more and more space for militarisation of extreme ethno-nationalist politics and groups. We can compare this to the increase of Holocaust denial in Europe, or the USA, and the space it has created for (re) emergence of militarised neo-nazi groups.

Furthermore, ethno-nationalist elites craftily abuse memorialisation, and in particular commemoration practices, to mark territory and “reserve” it for themselves. Everything from memorial plaques, (re)naming of the streets and institutions, to appropriation of historic monuments (especially those from World War II) are used to (re)shape and redefine the purposes of public spaces—in particular to help ethno-nationalist elites claim ownership of certain territories. In some ways, this is a continuation of the war for territory without lethal means. All of these “efforts” are directed towards constructing the narratives around ethnicity, (re)defining ethnic identity, and (re)inventing traditions so the territories can be marked and claimed. Based on all that, the ethno-nationalist elites can claim/fortify their power.

8.4. Glorifying the war, forgetting the victims, and militarising the public space

If we look at what is being commemorated, many of these initiatives are contributing to further militarisation of society. Some of the commemorative practices even romanticise the war. This is specifically seen in commemoration of fallen soldiers, battles, and randomly proclaimed war heroes. The commemorative ceremonies are packed with military symbolics and performances. Given that there is no commonly agreed framework about the war, no matter the established facts by the ICTY or domestic courts, the privatised commemoration practices have easily been manipulated to (re)tell narratives of great battles, or even to turn a war criminal into a war hero. And commemorative ceremonies seem to have stronger resonance with the people than courts.

Many times the commemorative practices and memorial sites ignore soldiers' motivations for joining various militaries, e.g many soldiers were subjected to forced conscription or joined an army as there was no other choice to survive. At the end of the day, they were men subjected to the patriarchal understanding of war and their role in it. Yet they are commemorated as fallen soldiers for religious or ethno-nationalist causes, even though many did not have any of those identities or motivations.

Memorials celebrating the sacrifice of fallen soldiers and supposed war heroes are placed in public spaces, often by the roads, on high grounds, schoolyards, and playgrounds, and in parks.

BiH is littered with memorials depicting men who “gave their lives” for the cause, always framed as a patriotic ethno-nationalist defense of an ethnic group. Most prominently they are depicted against religious symbols, the most visible signifiers of the ethnic difference. Taking a road trip through BiH is a peculiar experience in that way. On the side of the roads one can see memorials to various heroes that come in short succession. They come in various sizes and forms, but they all tell the same narrative of a heroic death.

One such prominent example can be found in a village between the cities of Vlasenica and Bijeljina. The men (soldiers) killed from (supposedly) that village are commemorated by a memorial, placed central to the village and by the road so it is visible for those passing by. The memorial depicts the map of BiH, but only the entity Republika Srpska (for which the men supposedly gave their lives) is visible while the rest of the BiH is carved out and replaced by a cross. In that way the memorial carries a double symbolism—the entity of Republika Srpska being carried by the cross and the men commemorated having died both for the cross and the entity.

Militarisation is a constituent part of the ethno-nationalist narrative about the necessity to sacrifice oneself for the greater good of the ethnic group, instilled with children from their very first day of school.

And it is not just about physical placement of memorials but also about naming schools and playgrounds after the supposed war heroes (some of them convicted war criminals). This blunt practice of militarisation has led to normalisation of war. Militarisation is a constituent part of the ethno-nationalist narrative about the necessity to sacrifice oneself for the greater good of the ethnic group, instilled with

children from their very first day of school. This practice has been so normalised by now that the ethno-nationalist elites have taken a step further and are not only using war heroes/war criminals from the '90s in their campaign towards the construction of ethnic identity, but also fascists from World War II, elevating them to heroes (and by doing so reinventing history in the way that fits ethno-nationalistic narratives).

In recent times, we have seen a proliferation of commemorative practices in relation to fascists, war criminals, and ethno-nationalist collaborators of Nazi Germany. The process of the rehabilitation of the World War II war criminals that primarily has been taking place in neighbouring countries (sometimes even through judicial process) has spilled over to BiH. This is mainly visible through extremely militarised commemorative lining-up of ethno-nationalist troops from World War II, religious commemorative sermons, or renaming of schools, streets, and public institutions. We have also been witnessing the usage of murals as a new form of commemorative practice. Walls at the entrance of some of the cities have been painted with “welcoming” faces not only of the war criminals from the 1990s war but also of the World War II war criminals. In such a way, each of the ethno-nationalist elites are trying to demonstrate the historical “relevance” and continuity of their ideological projects.

8.5. Instead of conclusions—Dealing with the future: Neoliberalism as our post war reality

The way in which memorialisation practices play out in BiH through private and individualised claiming of public space further shows how the DPA failed to contribute to building society, but rather enabled the formation of different groups and hyper-individualisation. The peace agreement, which did not create a space for social dialogue but rather for monologues and confrontations, failed in its primary aim, that is to create conditions for building sustainable peace.

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The private and individualised memorialisation practices that dominate BiH public space did not end just with commemoration of the consequences of the war in the 1990s. Rather, once co-opted by the ethno-nationalist elites (who sometimes now even take the lead in organising commemorations) the topics for commemorations widened. So now in addition to rehabilitating war criminals from the war in the

1990s and World War II, and rewriting historical facts about World War II, we have gotten to a point where we have commemorations of the **events from the Middle century** and further back in the past. Those are all used for imagining ethnic groups and proving their existence beyond the time the concept of ethnicity and nation even existed.

Without the dialogue and commonly agreed narrative about the past, private and individualised competitions for public space for commemoration are reminiscent of market economy practices and competition for a share of the market.

To this we need to add the global context of the uncritical spread of neoliberalism. Without the dialogue and commonly agreed narrative about the past, private and individualised competitions for public space for commemoration are reminiscent of market economy practices and competition for a share of the market. Only profit is not defined through financial gains, but through the primacy and domination over public space. The competition has become about who reimagines and constructs the narrative about “their” ethnic group the most effectively, so that the ethno-nationalist elites can benefit from it—that is, through which commemoration the ethno-nationalist elites can have the greatest use for their personal benefit.

The individualisation of the memorialisation process is firmly embedded in the neoliberal context that frames our post-war reality. In fact, neoliberalism is present throughout all political, economic, social, and cultural aspects of our lives, commodifying our memories and cashing in on our experiences. Through private and individualised commemorative practices and building of the monuments in public spaces, only certain memories and experiences have been given a voice, while most others either remain invisible or are assimilated into the dominant narrative.

The DPA provided ethno-nationalist elites with power and tools to influence the narratives of both the past and a neoliberal future. They have been using this power to extensively manipulate the narratives of the past to distort concepts such as heroes and villains, war and peace, victims, and perpetrators. These manipulations have been an effective tool for ethno-nationalist elites to remain in power. Thanks to this, we have been “talking” about and “dealing” with the past for the last 25+ years with no visible justice in sight for either the people or the society.

Nowadays we can find many individual, uncoordinated, project-driven interventions supported by the international community, creating even more chaos in an already chaotic scene.

In addition to this, the powers provided to the international community by the DPA have given them space to use BiH as a testing site for experiments with the neoliberal concept of peace, including when it comes to the process of memorialisation. Nowadays we can find many individual, uncoordinated, project-driven interventions supported by the international community, creating even more chaos in an already chaotic scene. In some cities of BiH you can even rest your legs on “**peace benches**” aimed at commemorating (!) peace funded by the United States Agency for International Development and International Organisation for Migration.

Today, the concept of memorialisation has become elastic. It is stretched and contracted by the ethno-nationalist elites as they see fit. We have become tolerant of plaques glorifying war criminals, of monuments and memorial sites that distort or hide the past; we have adapted to the fact that the ideologies and structures that once led us into war and enabled mass atrocities have become our new normal; and we have learnt not to question the neoliberal frame given to us for dealing with the past.

It did not have to be like this. This path was not set in stone. But when a peace agreement does not conceptualise and include mechanisms for dealing with the past but is instead firmly set in a neoliberal framework, everything but dealing with the past seems to be on offer.

Dismantling the Structures of Violence, Building a Society of Peace

We wrote these essays over a period of one year. The political, economic, and social context during that time was very dynamic. We went from a completely disinterested Office of the High Representative and the broader international community (IC), to renewed usage of Bonn powers, “emergency” visits by the mid-level US and EU officials, and warnings of “imminent war” by the new High Representative.

The ethno-nationalist elites both caused and benefited from these tense narratives. The aggressive strategies of the elites have resulted in a total blockade of the institutions, causing the IC to increase the alert level from “concerned” to “as worried as they can possibly get”. Institutions of the Federation of Bosnia and Herzegovina (FBiH) have already been blocked since the last elections (2018), but as the new general elections are approaching in October 2022, the ethno-nationalist elites have decided to “turn up the volume” and expand the blockade to state institutions.

So now at the state level, the Council of Ministers, the Parliamentary Assembly, and the Presidency are blocked by the Serb ethno-nationalists; at the level of entities, the FBiH is blocked by the Croat ethno-nationalists, and while the institutions of Republika Srpska are not blocked, they are run by one single man who, by using the ethno-nationalist matrix, keeps claiming exclusive power for himself (and his family and allies). While appearing willing to work within the state institutions, the Bosniak ethno-nationalists, self-proclaimed “pro-Bosnian forces” are only interested in discussions as long as they concern their power-positions and economic gains. The internalisation of colonialism is most present among this part of the ethno-nationalist elite. They continuously call on the IC to come up with solutions, refusing to take any responsibility for the country, despite being part of the ruling elite for more than 25 years.

In a way, it feels like during this past year Bosnia and Herzegovina (BiH) has travelled back in time to the period we described in our first essay: geopolitics, international meddling, militarised language of ethno-nationalist elites, and once again, numerous poor solutions on the table. While 25+ years have passed

since the signing of the Dayton Peace Agreement (DPA), BiH has by no means been freed from the shackles of its misconceived solutions. As we have been finalising these essays, the full spectrum of consequences are flushed out. The current news in mainstream media is saturated with (re)traumatising discourses reminiscent of those from just before the war started—the perpetual narrative of **a country that is “just about to fall apart”**; the **language of hate and bickering of ethno-nationalist elites** who use both national and international platforms to demonstrate antagonism; **the rattling of guns** from the “good-old” neighbours and self-proclaimed guardians; and the **perpetually worried** and scheming IC, **playing its geopolitical** and economic games of “neutrality”.

While 25+ years have passed since the signing of the Dayton Peace Agreement (DPA), BiH has by no means been freed from the shackles of its misconceived solutions.

9.1. The same old games

During 2021 the negotiations between the ethno-nationalist elites and the IC on revising the Election Law and the Constitution of BiH have intensified, and with it also the ethno-nationalistic discourse of conflict. It is infuriating to see that the current negotiations are, in their form and substance, an exact replica of all the talks that have failed thus far. Though not in a military base in Dayton, they are still held behind closed doors—in privately owned restaurants, walled off from the everyday poverty, or behind well-secured buildings of the EU Delegation, embassies, and **ambassadors’ residencies**. Sometimes the ethno-national elites touristically travel to Brussels, to break away from hazardous air pollution and the monotony of the BiH grey reality. They also collect their frequent travel miles by travelling to Zagreb and Belgrade for opinions and directions. Tripadvisor offers go as far as Istanbul. In the end, once all these meetings and running around result in yet another damaging agreement, we might read about the dynamics of these talks in someone’s memoirs (we might even open bets on who is most likely to do this). The people of BiH, yet again, have been witnessing a deeply corrupt process, driven by the ethno-nationalist elites, regional self-proclaimed guardians, and the IC, enabled by the dysfunctional system we have been living in.

Since all these players benefited greatly from the recipe behind the DPA, they continue to look into the same solutions: the international elites with **their geopolitical agendas** are once again in the role of powerful mediators looking to appease warmongering ethno-nationalist elites. Unlike in the ‘90s, we have a very active social media now. Facebook and Twitter are burning with “warnings”,

analyses, and opinions from BiH diaspora, mid – and high level diplomats, various “experts,” EU parliamentarians, influencers, and so forth. Frankly, they do nothing but add to chaos and trauma.

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The current negotiations about amendments of the Election Law and the Constitution are hastily and sloppily put together. They are happening against the backdrop of constant and deliberate misinterpretation of the current Constitution, which the ethno-nationalist elites interpret as they see fit. By putting forward demands catered to fit their personal interests but presenting them as “the interest of the ethnic group,” the ethno-nationalist elites (reminiscent of the DPA negotiations) are pushing the IC to support their demands. At the same time they are stubbornly insisting on making the existing BiH governance structures incapable of working, and thus creating a sense of chaos and imminent threat of war.

All these new negotiations have led to tensions running high. The ethno-nationalist elites have pulled out their little black books with war-mongering slogans, the international community is running back and forth eager to accuse us of threatening the security situation of the region and the continent once again, all while the people watch the charade in bewilderment and wonder if they will be able to pay the next electricity bill.

In the background of these tensions is not ethnic hatred but **fierce competition for control** over remaining natural and public resources. And while they negotiate for who will get the bigger piece of the cake, no one even considers asking the people of BiH whether they want to live in a country organised according to ethno-nationalist and neoliberal principles. Whether they care more about decent wages and pensions. No one asks them what their priorities are—maybe saving the public healthcare system that is falling apart, or saving our rivers and air from pollution, forests from being cut, hills from being exploited for sand, gravel, or grit? Whether they want public parks rather than private highrises, etc. For all those reasons people are already on the streets, protesting. The current negotiations do not take any of these issues into consideration.

9.2. A set trajectory

The dysfunctionality of BiH is not an epiphany and the discussions about the changes of the Election Law and the Constitutions that reinvigorated tensions in 2021 did not fall from the sky. They are a consequence of everything that has been done thus far.

It has been evident for a while that the Constitution, as part of the DPA package, needs to change, as it has created a dysfunctional administrative and territorial division of the country. The same can be said for the Election Law, which, as a byproduct of the Constitution, follows the same flawed logic of ethno-national divisions. But the country has seen nothing but failed attempts to amend the Constitution and the Election Law.

Each time these so-called processes were mirroring the DPA negotiations. Each time the process entailed the IC trying more of the same: talks and negotiations with, and concessions to, the ethno-nationalist elites. The excuse? The people elected them, they say. According to that logic, they represent the people's will. But claiming that people of BiH have been electing the ethno-nationalists for the last 25+ years is gaslighting! It is a corrupt discourse used to avoid accountability, as the Constitution and the Election Law have been drafted with such calculation and precision that the win by ethno-nationalists is always secured.

It never occurred to the IC that the failure to reform our political system also had to do with their methods.

The first failure to amend the Constitution came in April 2006, followed by more failures. The IC and the ethno-nationalist elites engaged in an endless series of meetings, trying to somehow find the solution that would satisfy all of them but at the same time appear as removing the discriminatory parts from the Constitution. It never occurred to the IC that the failure to reform our political system also had to do with their methods. Each time the talks were held with individuals, identified as leaders of this or that ethno-nationalist party. Each time the talks consisted of wining and dining with ethno-nationalists in various cities and fancy hotels and restaurants, in hope an agreement would be reached. Each time, the talks failed miserably. Looking at how it all wound up, it appears that the IC, despite the failures, still found most common interests and language with the ethno-nationalists, because they continued, over and over again, to see them as the only relevant interlocutors.

The active decision of the IC to talk only to ethno-nationalist elites (embodied in the ethno-nationalist party leaders) removes this key political discussion on the organisation of the state further and further away from the BiH institutions.

In recent years this has become blatantly obvious. The three political ethno-nationalist leaders have not always held elected positions. But no matter what (irrelevant) position in the institutions they occupy, they have been the ones with whom the IC exclusively talks to. By doing this the IC treats the ethno-nationalist leaders as owners of the state, creating conditions for new, political crises. So, the failure of the talks is not only due to the ethno-nationalist elites' not wanting to give up any of the powers provided to them by the DPA, but also due to the IC's unwillingness to give up their own colonial powers.

Not even the judgments of the European Court for Human Rights (ECtHR) helped (**Sejdić and Finci**, **Zornić**, **Šlaku**, **Pilav**, and **Pudarić**). The judgments were never looked at in their entirety, the focus was put only on their particular parts. They have been frequently and intentionally misinterpreted. What's more, the Zornić case, which goes further than any of the others in challenging the ethno-nationalist rule, has been completely sidelined and ignored.

Of course, the opinions of the ruling elites of the neighboring countries have always been considered more important than the voices of the people living in BiH. The ethno-nationalist elites make sure to have official, and publicly proclaimed, backing of respective ruling elites in the neighboring countries. As per the business model established during the DPA negotiations, even the IC considers the neighboring countries as relevant actors to talk to about our lives. This approach ignores their meddling and its destabilising effect, the same way as their participation in the war and their consequent responsibility for reparations were ignored.

9.3. Instead of conclusions: Unlearning colonialism and capitalism – A new constitution for BiH

The continuous political crisis in BiH cannot be resolved in such a way that it builds sustainable peace unless the colonial approach of the IC and feudal and autocratic behaviour of the ethno-nationalist elites is addressed. Sustainable peace cannot be built on structures that ensure eternal impunity of the corrupted elites. Every time ethno-nationalist elites have been accommodated in their demands, the situation has become a little bit worse. Each political concession has promoted and entrenched corruption as the basis for the functioning of governmental institutions. And everytime the IC has presented these accommodations as temporary, it has been impossible to reverse the damage created.

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If this trajectory continues, not only will the mistakes from the past be repeated but an already alarming situation will be aggravated. The only way to start addressing and fixing this flawed process is to start seeing the people living in BiH as actors with political agency, instead of subjects of international, neoliberal, colonial interventions, and as collateral damage of the feudal ambitions of power-thirsty ethno-nationalist elites.

What needs to change?

A lot of things! To begin with, we must unlearn everything that was imposed on us through the flawed process of the implementation of the DPA. And there are no quick fixes. Nevertheless, one thing is certain: there is a need for radical change in approaches to peacebuilding in BiH. We need a full transformation and decolonisation of the current system. Thus, in order to create conditions for sustainable peace, inclusivity, contextual understanding, and solidarity need to be the guiding principles of the new approaches to building political, economic, and social organisation of BiH.

To begin with, we must unlearn everything that was imposed on us through the flawed process of the implementation of the DPA.

9.3.1. To reach peace we need to transform the society

While it is clear that the current Constitution of BiH must change, it is also clear that this cannot occur through a set of reforms or amendments. There is no meaningful way to reform a constitution that is the result of war-gains and there are no amendments that can go to the bottom of the problem: an ethno-nationalist, misogynist and authoritarian system that promotes corruption and violence, and is upheld by reiteration of conflicts and divisions. The carefully developed ideas coming from the abolitionist movement about the necessity to abolish deeply dysfunctional systems rather than reforming them are applicable in the discussion on how we move forward in BiH. As our colleague and fellow peace activist from WILPF **Ray Acheson wrote**: "Abolition is about rejecting the current structures as a source of, rather than a solution to, violence. And it is about building alternatives."

An amended Constitution is not a source of solution for BiH. We need a new constitution.

And how we do it matters. The process of drafting and adopting the new constitution of BiH must be the total opposite of the drafting and imposition of the current Constitution. The new constitution has to be the result of a comprehensive, transparent, all-inclusive, informed and long-lasting social dialogue inside BiH. The mechanisms must be installed to prevent ethno-nationalist elites intervening in the process, as well as to prevent any other outside interventions.

9.3.2. We need an inclusive process outside of neoliberal and neocolonial understanding of inclusivity

The current ways of presenting inclusivity during key social and political discussions is a charade. The shameful appropriation of the grassroots ideas of direct democracy and plenums as recently done by **the EU Delegation in BiH** is one such example. The EU Delegation has pompously announced that it has appointed members of the so-called Citizens Assembly as “a unique opportunity for citizens in BiH to directly express their views on constitutional and electoral reform.” What is so unique about this top-down project-driven approach to democracy remains unclear, as this is yet another in a long line of unacceptable neocolonial interventions that lead to depoliticisation of people in BiH.

When talking about *an inclusive process* we are not talking about the ways how the current talks with civil society are being conducted. At the moment only a selected number of NGOs are given a voice: those that provide support to the ethno-nationalist elites' narratives and/or are established by them. The second group of NGOs that are given space at so-called consultative meetings are either financed by the ethno-nationalist elites, donor states or the EU. They are usually invited to these consultations for the organiser to solicit support to already decided upon, top-down solutions.

This approach to dialogue with civil society has to change, as it has not worked thus far. Those dialogues are not reflective of intersectional lived experiences and realities, and there is no real space to analyse, critique, influence, and/or reject the neoliberal economic and political policies promoted by the ethno-nationalist elites, self-proclaimed regional guardians, or the IC.

Any serious, inclusive, and effective dialogue must be based on the broadest possible participation of the people living in BiH, and be led by grassroots activists and community organisers. Furthermore, the widest-possible inclusion of people living in BiH in the process of drafting a new constitution and deciding about the future organisation of the society means inclusion of people from

various segments of the society and in various walks of life, from all social, economic or political levels. This process must also be open to all of the identities people feel the most comfortable with, but far more important is to bring in the lived experiences of the structures of oppression and from within all social and economic stratifications.

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9.3.3. (Re)politicisation of people and the society

We also need to underline the necessity for creating conducive circumstances for the BiH society to engage in this new process. It must be acknowledged that the process of the implementation of the DPA in fact depoliticised the people living in BiH. Thus, it must also be recognised that time is needed to reverse that process.

Ad hoc interim solutions should not be put in place, as they would further complicate the political situation, or make things worse. Rather, the focus must be on providing people with adequate political tools (e.g. political economy) and vocabulary to be able to engage in the process of imagining the society we want to live in.

We need a process of (re)politicisation of the society, through which the patriarchal, colonial, militarist, and capitalist system can be dismantled, a process that is complex and requires reflections.

Only once the people are politicised anew can the drafting process for the new constitution begin. And it is the people living the everyday reality of BiH (from all walks of society and with various experiences of oppression) who need to lead it, not the IC nor ethno-nationalist elites.

9.3.4. A constitution as the result of socio-political processes not a peace agreement

The very fact that the Constitution of BiH was imposed on the people living in BiH, and is an integral part of the peace agreement, has unavoidably been pulling the process of amending the Constitution into a contentious discussion about renegotiating the peace agreement itself. This has created space for the ethno-nationalist elites to heighten the militarised rhetoric and threats of war.

Thus, any discussion and linking of the drafting of the new constitution to a “Dayton II” must be abandoned, and once the new constitution is adopted the DPA must become obsolete. Connecting the discussions on constitutional arrangements to the peace agreement creates space for the ethno-nationalist elites to further their narrative of the existence of conflicts and possibility of a new war.

Furthermore, the unsolicited interferences from Croatia and Serbia in the sovereignty and internal issues of BiH are incorrectly based in the DPA. To avoid their guardianship claims, when in fact intervening in internal matters of another state, the language of the DPA needs to be abandoned. In order to stabilise the country and work towards sustainable and just peace, the people of BiH must become the only legitimate political subjects.

9.3.5. The promotion of neoliberal policies and neocolonialism must stop immediately

International financial institutions and their usage of structural adjustment programmes and loan conditionalities as vehicles for imposition of neoliberal political economy needs to be pushed back against. The IC, inclusive of international financial institutions and bilateral donors, are as accountable for the 25+ years of violations of our economic, social and cultural rights as the ethno-nationalist elite is. This accountability must be acknowledged, addressed and redressed.

9.3.6. Power to the people

We started writing this essay series in order to tell a story of a country 25 years into its peacebuilding effort. We wanted to go beyond mainstream interpretations, narratives, and understandings of the DPA and its consequences for BiH. We wanted to claim space for a feminist perspective on the DPA and its impacts, which are otherwise drenched in predominantly male, “expert” analyses. These “experts” are international, regional, and national groups or individuals; they hold ethno-nationalist and/or liberal positions; they mildly or heavily support capitalist ideas and ideology; some of them are even socialist; they are of all ages and backgrounds; and they come from different political, governmental, and non-governmental affiliations. But what is common for all those perspectives is that they are deeply patriarchal and they all take up a lot of space and time.

The main task of the DPA was not to build peace but to build neoliberal capitalism.

We also wanted to bring to light the full spectrum of consequences of a peace agreement negotiated by national and international self-interest groups, ignorant of the BiH people and their post-war realities. The main task of the DPA was not to build peace but to build neoliberal capitalism. The backdrop against which the misconceived peacebuilding in BiH has taken place has included neocolonial and feudal exploitation and commodification of our lives, labour, and (natural) resources; ethno-national appropriation of governance structures and expropriation of land and common goods; glorification of private and sovereign debt by international financial institutions; gradual but firm imposition of structural adjustment programmes; and normalisation and formalisation of corporate abuse of power and corruption. The DPA managed to end the war but continued to relentlessly facilitate violence, militarisation, neocolonialism, and patriarchy, all of them antithetical to the very essence of peace.

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The dissatisfaction with imposed solutions among the people of BiH has been growing. People are demanding changes, as they are fed up waiting for peace and at least some resemblance of prosperity. The political status quo and the dismantling of social and economic rights, which has plunged the majority of people into poverty, is no longer acceptable. The appropriation of land and resources is threatening our very lives, causing pollution of air, water, and land. The renewed politicisation of the society and reclaiming of power has seen its inception with the actions to protect our natural resources and public spaces. As people's voices are being politicised anew, we see an increase in voices questioning the current political and economic organisation of the state.

BiH's story about peace is no longer only a question of dealing with the war in the 90's. The issues have been compounded by the years of neglect and a deeply flawed peace agreement, and we now need to abolish the DPA structures that consolidate power in the hands of the few. Even though more than 25 years have past BiH still needs to build mechanisms for sustainable and just peace, and that requires a re-centering of the whole idea of where the power lies—not with the international community, not with the ethno-nationalist elites, and not with the institutions they've built to uphold their authoritarian rule. The power lies with the people.

The power lies with the people.

More than 25 years have passed since the signing of the Dayton Peace Agreement (DPA) in Bosnia and Herzegovina (BiH). The impact of the DPA on the lives of the people living in the country has been immense. In a series of essays two local peace activists reflect on how the war and the peace have been interpreted, applied, projected, and reproduced within the BiH society and how a process of peacebuilding, firmly grounded in neoliberal ideology, has generated results contrary to the very essence of peace. Bringing in a feminist counter-narrative to a neocolonial, patriarchal, and militant framework these essays offer a perspective on how to start repairing the social fabric torn apart by the war and its consequences.

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